

CITY OF AUSTIN
Board of Adjustment
Decision Sheet
SPECIAL CALLED MEETING

DATE: Thursday October 26, 2017

CASE NUMBER: C15-2017-0051

- Brooke Bailey Out
- y William Burkhardt
- y Christopher Covo
- y Eric Goff
- y Melissa Hawthorne
- y Bryan King
- y Don Leighton-Burwell
- y Rahm McDaniel
- y Veronica Rivera
- y James Valadez
- Michael Von Ohlen Out
- y Kelly Blume (Alternate)
- Martha Gonzalez (Alternate)
- y Pim Mayo (Alternate)

APPLICANT: Reagan National Advertising, Inc./Nikelle Meade

OWNER: Reagan National Advertising, Inc.

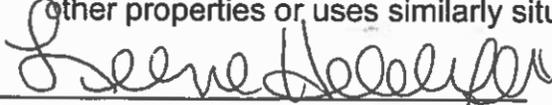
ADDRESS: 2355-1/2 SH 71 WB

VARIANCE REQUESTED: The applicant has filed an appeal challenging staff's decision to reject a permit application to modify a nonconforming off-premise sign that according to Section 25-10-152 (*Nonconforming Signs*) (B) (2) staff believes would change the method or technology used to convey a message in a "CS", General Commercial Services. (Expressway Corridor Sign District)

BOARD'S DECISION: Oct 26, 2017 The public hearing was closed on Board Member Rahm McDaniel motion to Deny, Board Member Bryan King second on an 11-0 vote; DENIED.

FINDING:

1. There is a reasonable doubt of difference of interpretation as to the specific intent of the regulations or map in that:
2. An appeal of use provisions could clearly permit a use which is in character with the uses enumerated for the various zones and with the objectives of the zone in question because:
3. The interpretation will not grant a special privilege to one property inconsistent with other properties or uses similarly situated in that:



 Leane Heldenfels
 Executive Liaison



 William Burkhardt
 Chairman



November 6, 2017

VIA HAND DELIVERY

Leane Heldenfels, Senior Planner
Board of Adjustment Liaison
City of Austin Development Services Department
505 Barton Springs Road, 1st Floor
Austin, Texas 78704

Re: Request for Reconsideration - C15-2017-0051
Reagan National Advertising of Austin, Inc.
Appeal of Permit Denial, 2355 ½ SH 71 East

Dear Ms. Heldenfels:

On behalf of my client, Reagan National Advertising of Austin, Inc., I am submitting this Request for Reconsideration of the Board of Adjustment (“Board”) vote on the above-referenced case. The Board voted on this matter at its October 26, 2017, meeting, and we are filing this request pursuant to Article V, Subsection (F)(4) of the Board of Adjustment Rules of Procedure.

We respectfully request that the Board reconsider its vote denying the appeal of the staff determination at issue in this case. Reconsideration should be granted due to “new or clarified evidence” that the staff determination should be overturned for being in violation of the First Amendment. Specifically, case law supports a ruling that, at the time that the permit application was filed, the Sign Code was unenforceable as contrary to the First Amendment. Since the Sign Code was unenforceable, the prohibition against changing the method used to convey information was also unenforceable, and there was no valid reason to deny to permits. As a result, reconsideration should be granted and the staff determination should be overturned.

The clarified info includes the following:

1. Clarified Background Information

The staff letter denying the permit application only cited two reasons for denial: “These applications cannot be approved under Section 25-10-152 (Nonconforming Signs) because they

would [1] change the existing technology used to convey off-premise commercial messages and [2] increase the degree of nonconformity with current regulations relating to off-premise signs.” The sign is nonconforming because, inter alia, it is an “off-premise” sign.

Under the Sign Code, the sign would not become more nonconforming were there to be a change in the method used to convey a message. First, under § 25-10-152, a person may change or alter a sign if the change or alteration does not (a) increase the degree of the existing nonconformity or (b) change the method or technology used to convey a message. Changing the method of conveyance does not increase the degree of nonconformity. Rather, it is paired with the “degree of nonconformity” provision as a limitation on the ability to change or alter a nonconforming sign.

2. Clarification about the recent landmark case.

In *Reed v. Town of Gilbert, Arizona*, the U.S. Supreme Court struck down a town’s sign regulation because it provided for different regulations based on what the sign advertised. As the Court described:

The Town’s Sign Code is content based on its face. It defines “Temporary Directional Signs” on the basis of whether a sign conveys the message of directing the public to church or some other “qualifying event.” It defines “Political Signs” on the basis of whether a sign’s message is “designed to influence the outcome of an election.” And it defines “Ideological Signs” on the basis of whether a sign “communicat[es] a message or ideas” that do not fit within the Code’s other categories. It then subjects each of these categories to different restrictions.¹

As a result, the Supreme Court held that the content-based sign code, which subjected ideological signs to certain restrictions, subjected political signs to greater restrictions, and subjected temporary directional signs relating to events to even greater restrictions, did not survive strict scrutiny, and thus violated free speech guarantees; even if that town had compelling government interests in preserving town’s aesthetic appeal and traffic safety, sign code’s distinctions were underinclusive, and thus were not narrowly tailored to achieve that end, in that temporary directional signs were no greater an eyesore than ideological or political ones, and there was no reason to believe that directional signs posed a greater threat to safety than ideological or political signs.

3. The U.S. Supreme Court did not limit its holding in *Reed* to noncommercial speech.

The Supreme Court in *Reed* did not limit its ruling to religious, political, or other noncommercial speech. In dicta in a concurring opinion, Justice Alito opined that that regulations distinguishing between on-premise and off-premise signs would not be a content-

¹ *Reed v. Town of Gilbert, Ariz.*, 135 S. Ct. 2218, 2227 (2015) (internal citations omitted).

based regulation, but this was not part of the holding and is therefore not binding law under *Reed*.

4. A recent federal case applied *Reed* supports overturning the staff determination.

While *Reed* is still a recent case, at least one Federal District Court has relied on *Reed* to strongly assert that the on-premise versus off-premise distinction is not content-neutral. In *Thomas v. Schroer*, the Federal District Court noted:

“Not only is the concurrence not binding precedent, but the concurrence fails to provide any analytical background as to why an on-premise exemption would be content neutral. The concurrence’s unsupported conclusions ring hollow in light of the majority opinion’s clear instruction that ‘a speech regulation targeted at specific subject matter is content based even if it does not discriminate among viewpoints within that subject matter.’”²

5. Clarification and added specificity of constitutional law

Under the First Amendment, a government, including a municipal government vested with state authority, has limited power to restrict expression because of its message, its ideas, its subject matter, or its content. U.S. Const. Amend. 1. The Sign Code regulates speech – billboards and other signs – and is thus subject to First Amendment freedom of speech regulations. Under the First Amendment, the Sign Code is unconstitutional on its face and as-applied.

6. The Sign Code is unconstitutional on its face since it is vague and overly broad.

The Supreme Court has established the vagueness test and the overbreadth test as methods of determining whether a restriction on speech is valid on its face. The facial analysis asks whether a regulation’s text is always unconstitutional, and therefore void, before looking to its application to specific facts. The vagueness test asks whether a person of common intelligence can read the regulation and tell what speech is prohibited and what speech is permitted.³ The related overbreadth doctrine looks to whether the speech restriction proscribes a broad amount of protected speech, and therefore “deters people from engaging in constitutionally protected speech.”⁴

The Sign Code is overly broad, since it applies different regulations to signs based on whether they are nonconforming, and a freestanding sign can be nonconforming for no other reason than it depicts “off-premise” speech. In addition, the Sign Code is vague, since you

² *Thomas v. Schroer*, 127 F. Supp. 3d 864 (W.D. Tenn. 2015). See also, *Thomas v. Schroer*, 2017 WL 1208672 (W.D. Tenn. 2017) (ruling the Tennessee Billboard Act an unconstitutional content-based regulation of speech).

³ *FCC v. Fox Television Stations, Inc.*, 567 U.S. 239, 253 (2012); *Connally v. Gen. Constr. Co.*, 269 U.S. 385, 391 (1926).

⁴ *U.S. v. Williams*, 553 U.S. 285, 292 (2008).

cannot tell from it what speech is prohibited and what speech is protected on nonconforming signs. For example, you cannot determine, based on the Sign Code, whether the City of Austin would allow a new billboard with an advertisement for an off-premise church bookstore, since it is unclear if this would be commercial speech or noncommercial, religious speech.

7. The Sign Code is a content-based restriction of speech.

After determining that a regulation is valid on its face, the Supreme Court next determines the relevant standard of review by classifying the type of regulation as content-neutral or content-based and also by classifying the type of speech being regulated.⁵ Because content-based laws target speech based on its communicative content, they are presumptively unconstitutional and may be justified only if the government proves that they are narrowly tailored to serve compelling state interests.⁶ Speech regulation is content based if a law applies to particular speech because of the topic discussed or the idea or message expressed.⁷

The Sign Code regulates signs based on content, because it provides different regulations for nonconforming signs, and a sign can be nonconforming for no reason other than presenting an off-premise message.

8. Even if the regulations were limited to content-neutral, commercial speech, the Sign Code would be unenforceable as unconstitutional.

It is well settled that the First Amendment protects commercial speech from unwarranted governmental regulation.⁸ Under the test for commercial speech – intermediate scrutiny – the regulations are also unconstitutional, since the Sign Code is not narrowly tailored to further an important governmental interest.

Conclusion

For these reasons, we respectfully request the opportunity to present new and clarified information that bears directly on the legality of the staff determination. The case should be reconsidered so that the Board has an opportunity to review this additional information and deliberate accordingly.

On behalf of Reagan National Advertising of Austin, Inc., thank you for your time and consideration and please contact me if you require any additional information.

⁵ *Cent. Hudson Gas & Elec. Corp. v. Pub. Serv. Comm'n*, 477 U.S. 557, 563-64 (1980).

⁶ *E.g., R.A.V. v. St. Paul*, 505 U.S. 377, 395.

⁷ *Reed v. Town of Gilbert, Ariz.*, 135 S. Ct. 2218, 2222 (2015).

⁸ *See Posadas de Puerto Rico Associates v. Tourism Co. of Puerto Rico*, 478 U.S. 328, 106 S. Ct. 2968, 92 L. Ed. 2d 266, 13 Media L. Rep. (BNA) 1033 (1986).

Sincerely,

Nikelle Meade

Enclosures

Relevant Sign Code Provisions

§ 25-10-152 - NONCONFORMING SIGNS.

- (A) A person may continue or maintain a nonconforming sign at its existing location.
- (B) A person may not change or alter a nonconforming sign except as provided in this subsection.
 - (1) The face of the sign may be changed.
 - (2) The sign may be changed or altered if the change or alteration does not:
 - (a) increase the degree of the existing nonconformity;
 - (b) change the method or technology used to convey a message; or
 - (c) increase the illumination of the sign.

§ 25-10-4(8) - DEFINITIONS.

(8) NONCONFORMING SIGN means a sign that was lawfully installed at its current location but does not comply with the requirements of this chapter.

§ 25-10-4(9) - DEFINITIONS.

- (9) OFF-PREMISE SIGN means a sign that displays any message directing attention to a business, product, service, profession, commodity, activity, event, person, institution, or other commercial message which is generally conducted, sold, manufactured, produced, offered, or occurs elsewhere than on the premises where the sign is located. For purposes of this definition, any portion of a lawfully permitted special event where public streets have been closed to traffic in accordance with Title 14 (*Use of Streets and Public Property*) shall be considered a single premises.

entitled to greater weight than the opinions of treating or examining sources.”

Bernola contends non-examining sources “should only properly outweigh a treating source opinion if they had a more complete record at their disposal in forming their opinions.” (Doc. 14 at 17). She argues, for various reasons, the ALJ gave these sources too much weight. (Doc. 14 at 16–22). I do not agree.

As part of a “careful consideration of the entire record,” the ALJ evaluated the medical opinions at issue using the relevant factors set forth 20 C.F.R. § 416.927(a)-(d). (Doc 13 at 23). The ALJ “afforded [the opinions] *some* weight because they had the benefit of Ms. Bernola’s longitudinal record and because [the] opinions are generally consistent with the record as a whole and her routine and conservative treatment.” (*Id.* at 28 (emphasis added)). Bernola cannot reasonably argue “some weight” outweighs the “great weight” the ALJ afforded portions of the 2012 RFC.

Again, as with her first objection to the R & R, Bernola’s arguments largely amounts to subjective disagreement with the ALJ’s weighing of medical-opinion evidence. That is not a proper basis for reversal. *See Mullins* 836 F.2d at 984.

Conclusion

In sum, the ALJ is responsible for reviewing all the evidence, including all medical evidence, in making her determination. 20 C.F.R. § 416.927(c)-(e). The ALJ will consider any statements from medical sources, whether or not based on formal medical evaluations. 20 C.F.R. § 416.945(a)(3). Although the ALJ considers all evidence before her, the ALJ makes the final finding as to Bernola’s residual functional capacity. 20 C.F.R. § 416.946(c).

I find substantial evidence supports the ALJ’s findings of fact, and the ALJ applied the law correctly to those facts.

Brainard 889 F.2d at 681. I therefore must affirm. 42 U.S.C. § 405(g); *Kinsella*, 708 F.2d at 1059; *see also Mullen v. Bowen*, 800 F.2d at 545.

For the foregoing reasons, it is hereby:

ORDERED THAT

1. Bernola’s objections to the Magistrate Judge’s Report and Recommendation (Doc. 20) be, and the same hereby are, overruled; and
2. The Report and Recommendation (Doc. 19) be, and the same hereby is, adopted as the order of this court.

So ordered.



William H. THOMAS, Jr., Plaintiff,

v.

John SCHROER, Commissioner of Tennessee Department of Transportation, in his individual capacity; and John Reinbold; Patti Bowlan; Robert Shelby; Shawn Bible; and Connie Gilliam, in their individual capacities, Defendants.

No. 2:13-cv-02987-JPM-cgc.

United States District Court,
W.D. Tennessee,
Western Division.

Signed Sept. 8, 2015.

Background: Billboard owner brought § 1983 action against Commissioner of Tennessee Department of Transportation (DOT) and other officials, alleging DOT violated his First, Fifth, and Fourteenth Amendment rights when it removed certain of his billboards and signs displaying noncommercial content pursuant to Ten-

THOMAS v. SCHROER

Cite as 127 F.Supp.3d 864 (W.D.Tenn. 2015)

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nessee's Billboard Regulation and Control Act. After obtaining temporary restraining order (TRO) to prevent removal of billboard, 116 F.Supp.3d 869, 2015 WL 4577084, owner moved for a preliminary injunction preventing DOT from removing his billboard for violating the Act.

Holdings: The District Court, Jon P. McCalla, J., held that:

- (1) owner had substantial likelihood of success on merits of claim that content-based provisions of the Act did not survive strict scrutiny;
- (2) continuation of adequate federal funding under Federal Highway Beautification Act was not compelling interest for purposes of strict scrutiny analysis;
- (3) owner had substantial likelihood of success on merits of claim that unconstitutional content-based provisions of the Act were not severable from the Act as a whole;
- (4) owner would likely suffer irreparable injury absent preliminary injunction;
- (5) preliminary injunction would not cause substantial harm to others;
- (6) public interest favored issuing preliminary injunction; and
- (7) federal Anti-Injunction Act did not bar issuance of preliminary injunction.

Motion granted.

1. Injunction ⇌1074

The purpose of a preliminary injunction is merely to preserve the relative positions of the parties until a trial on the merits can be held.

2. Injunction ⇌1598

A party is not required to prove his case in full at a preliminary injunction hearing and the findings of fact and conclusions of law made by a court granting the preliminary injunction are not binding at trial on the merits.

3. Injunction ⇌1092

To determine whether injunctive relief is appropriate, the court considers four factors, which are factors to be balanced, not prerequisites that must be met, and no one factor is dispositive: (1) the likelihood of success on the merits; (2) whether the injunction will save the plaintiff from irreparable injury; (3) whether the injunction would cause substantial harm to others; and (4) whether the public interest would be served by the injunction.

4. Injunction ⇌1563

The burden of persuasion is on the party seeking the injunctive relief.

5. Constitutional Law ⇌1507, 1517

The government has no power to restrict expression because of its message, its ideas, its subject matter, or its content. U.S.C.A. Const.Amend. 1.

6. Constitutional Law ⇌1517, 1518

Content-based laws are presumptively unconstitutional and may be justified only if the government proves that they are narrowly tailored to serve compelling state interests. U.S.C.A. Const.Amend. 1.

7. Constitutional Law ⇌1517, 1518

Government regulation of speech is "content based," and therefore subject to strict scrutiny, if a law applies to particular speech because of the topic discussed or the idea or message expressed; this commonsense meaning of the phrase content based requires a court to consider whether a regulation of speech on its face draws distinctions based on the message a speaker conveys. U.S.C.A. Const.Amend. 1.

See publication Words and Phrases for other judicial constructions and definitions.

8. Constitutional Law ⇌1512

The first step in the First Amendment analysis is to determine whether the law is

content neutral on its face. U.S.C.A. Const.Amend. 1.

9. Constitutional Law ⇌1518

A law that is content based on its face is subject to strict scrutiny regardless of the government's benign motive, content-neutral justification, or lack of animus toward the ideas contained in the regulated speech. U.S.C.A. Const.Amend. 1.

10. Constitutional Law ⇌1517

A speech regulation targeted at specific subject matter is content based even if it does not discriminate among viewpoints within that subject matter. U.S.C.A. Const.Amend. 1.

11. Civil Rights ⇌1457(7)

Provisions of Tennessee's Billboard Regulation and Control Act exempting from certain regulations outdoor advertising conducted on property on which signs were located, signs advertising sale or lease of property on which they were located, and directional or other official signs and notices, including signs pertaining to natural wonders and scenic and historical attractions, were likely content-based, and thus subject to strict scrutiny, for purposes of billboard owner's motion for preliminary injunction to prevent Tennessee Department of Transportation (DOT) from removing billboard; only way to determine whether a sign fell within exemption was to consider its content. U.S.C.A. Const. Amend. 1; West's T.C.A. §§ 54-21-103(1-3), 54-21-107(a)(1, 2).

12. Civil Rights ⇌1457(7)

Billboard owner seeking preliminary injunction preventing Tennessee Department of Transportation (DOT) from removing billboard for violating Tennessee's Billboard Regulation and Control Act had substantial likelihood of success on merits of claim that content-based provisions of the Act exempting from regulation outdoor advertising conducted on property on which signs were located, signs advertising

sale or lease of property on which they were located, and directional or other official signs and notices, including signs pertaining to natural wonders and scenic and historical attractions, were not narrowly tailored to further state's compelling interest in driver safety, and thus did not survive strict scrutiny; state did not show that limiting non-exempt signs would likely result in greater driver safety than limiting exempt signs. U.S.C.A. Const.Amend. 1; West's T.C.A. §§ 54-21-103(1-3), 54-21-107(a)(1, 2).

13. Constitutional Law ⇌1655

Content-based provisions regulating signs will fail constitutional muster if the government cannot demonstrate that the divergence in regulations based on the content of the signs furthers a compelling governmental interest and is narrowly tailored to that end. U.S.C.A. Const.Amend. 1.

14. Constitutional Law ⇌1505, 1506

A law regulating speech is not narrowly tailored, and thus does not survive strict scrutiny, if it is either underinclusive or overinclusive. U.S.C.A. Const.Amend. 1.

15. Civil Rights ⇌1457(7)

Billboard owner seeking preliminary injunction preventing Tennessee Department of Transportation (DOT) from removing billboard for violating Tennessee's Billboard Regulation and Control Act had substantial likelihood of success on merits of claim that content-based provisions of the Act exempting from regulation outdoor advertising conducted on property on which signs were located, signs advertising sale or lease of property on which they were located, and directional or other official signs and notices, including signs pertaining to natural wonders and scenic and historical attractions, were not narrowly tailored to further state's interests in pro-

tecting public's investment in highways and increasing promotion of recreational value of public travel and natural beauty; state did not show that limiting non-exempt signs would likely result in greater promotion of its interests than limiting exempt signs. U.S.C.A. Const.Amend. 1; West's T.C.A. §§ 54-21-103(1-3), 54-21-107(a)(1, 2).

16. Constitutional Law ⇌1675, 1676

Highways ⇌153.5

Continuation of adequate federal funding under Federal Highway Beautification Act was not compelling interest for purposes of strict scrutiny analysis of content-based provisions of Tennessee's Billboard Regulation and Control Act exempting from regulation outdoor advertising conducted on property on which signs were located, signs advertising sale or lease of property on which they were located, and directional or other official signs and notices; although Federal Highway Administration (FHWA) apparently intended to enforce Highway Beautification Act against Tennessee even if Billboard Regulation and Control Act was found to be unconstitutional, Tennessee did not explain how federal government could constitutionally withhold federal highway funds from it on the basis that the state failed to engage in conduct that violated First Amendment. U.S.C.A. Const.Amend. 1; 23 U.S.C.A. § 131; West's T.C.A. §§ 54-21-103(1-3), 54-21-107(a)(1, 2).

17. Statutes ⇌1533

Typically, when a portion of a state law is found to be unconstitutional, the court will sever that portion from the remaining constitutional portions of the law.

18. Statutes ⇌1533

In determining severability of unconstitutional provisions of a state law, the court seeks to avoid nullifying more of a legislature's work than is necessary, because doing so frustrates the intent of the

elected representatives of the people, and for this reason, where partial, rather than facial, invalidation is possible, it is the required course.

19. Statutes ⇌1533

In determining severability of unconstitutional provisions of a state law, the court restrains itself from rewriting state law to conform it to constitutional requirements even as the court strives to salvage it.

20. Statutes ⇌1533

In determining severability of unconstitutional provisions of a state law where the court has established a bright line constitutional rule, it is more appropriate to invalidate parts of the statute that go beyond the constitutional line, whereas making distinctions in a murky constitutional context, or where line-drawing is inherently complex, may call for a far more serious invasion of the legislative domain than the court ought to undertake.

21. Statutes ⇌1533

In determining severability of unconstitutional provisions of a state law, the court considers legislative intent, and inquires whether the legislature would prefer to have part of the statute remain in force.

22. Statutes ⇌1533

A court's conclusion that the legislature would have enacted a statute absent an unconstitutional provision, as required for the court to sever that provision from the remaining constitutional portions of the law, must be based on evidence that is obvious on the face of the statute; otherwise the court risks overstepping into functions reserved for the legislature.

23. Civil Rights ⇌1457(7)

Billboard owner seeking preliminary injunction preventing Tennessee Depart-

ment of Transportation (DOT) from removing billboard for violating Tennessee's Billboard Regulation and Control Act had substantial likelihood of success on merits of claim that unconstitutional content-based provisions of the Act, which exempted from regulation outdoor advertising conducted on property on which signs were located, signs advertising sale or lease of property on which they were located, and directional or other official signs and notices, were not severable from the Act as a whole, and thus, the Act as a whole was unconstitutional restraint on speech; content-based provisions guided fundamental determination of which signs were subject to regulation, remaining sections of Act dealt with minutiae of executing it, and it was not clear on face of the Act that Tennessee legislature would have enacted it absent the content-based provisions. U.S.C.A. Const.Amend. 1; West's T.C.A. § 54-21-101 et seq.

24. Statutes ⇨1533

Under Tennessee law, severance of unconstitutional portions of a statute is generally disfavored.

25. Statutes ⇨1533

Tennessee law permits severance of unconstitutional portions of a statute only when it is made to appear from the face of the statute that the legislature would have enacted it with the objectionable features omitted.

26. Civil Rights ⇨1457(1)

The loss of First Amendment freedoms, for even minimal periods of time, constitutes irreparable injury that supports granting preliminary injunction. U.S.C.A. Const.Amend. 1.

27. Civil Rights ⇨1457(7)

Billboard owner would likely suffer irreparable injury absent preliminary injunction preventing Tennessee Department of Transportation (DOT) from removing his billboard for violating

Tennessee's Billboard Regulation and Control Act, since owner established a strong likelihood that removal of the billboard pursuant to the Act would violate his First Amendment free speech rights. U.S.C.A. Const.Amend. 1; West's T.C.A. §§ 54-21-103(1-3), 54-21-107(a)(1, 2).

28. Civil Rights ⇨1457(7)

Preliminary injunction preventing Tennessee Department of Transportation (DOT) from removing billboard for violating Tennessee's Billboard Regulation and Control Act would not cause substantial harm to others, but instead billboard owner would likely suffer irreparable harm to his First Amendment free speech rights in absence of injunction; any threat to safety, threat to aesthetics, and loss of federal funding were consequences arising from the unconstitutionality of the Act, not the issuance of injunctive relief, and because scope of injunction was limited to one billboard, only individuals that viewed or were in some other way affected by the billboard could suffer harm as a result of an injunction. U.S.C.A. Const.Amend. 1; West's T.C.A. § 54-21-101 et seq.

29. Injunction ⇨1074

A preliminary injunction merely preserves the relative positions of the parties.

30. Civil Rights ⇨1457(1)

It is always in the public interest to prevent violation of a party's constitutional rights, as would support granting preliminary injunction.

31. Civil Rights ⇨1457(7)

Public interest favored issuing preliminary injunction preventing Tennessee Department of Transportation (DOT) from removing billboard for violating Tennessee's Billboard Regulation and Control Act, since billboard owner established a strong likelihood that removal of the bill-

board pursuant to the Act would violate his First Amendment free speech rights. U.S.C.A. Const.Amend. 1; West's T.C.A. § 54-21-101 et seq.

32. Courts ⇌ 508(2.1)

Federal Anti-Injunction Act did not bar issuance of preliminary injunction, in billboard owner's § 1983 action against Tennessee officials, seeking to prevent Tennessee Department of Transportation (DOT) from removing billboard for violating Tennessee's Billboard Regulation and Control Act, on ground that the Act was unconstitutional restraint on speech; relief sought by owner did not exceed limits of authority granted to federal courts. U.S.C.A. Const.Amend. 1; 28 U.S.C.A. § 2283; 42 U.S.C.A. § 1983; West's T.C.A. § 54-21-101 et seq.

West Codenotes

Validity Called into Doubt

West's T.C.A. §§ 54-21-101, 54-21-102, 54-21-103, 54-21-104, 54-21-105, 54-21-106, 54-21-107, 54-21-108, 54-21-109, 54-21-110, 54-21-111, 54-21-112, 54-21-113, 54-21-114, 54-21-115, 54-21-116, 54-21-117, 54-21-118, 54-21-119, 54-21-120, 54-21-121, 54-21-122, 54-21-123

William H. Thomas, Jr., Law Office of William H. Thomas, Jr., Memphis, TN, Edward Adam Webb, Webb Klase & Leonard, LLC, Atlanta, GA, for Plaintiff.

Dawn Jordan, Amanda Shanan Jordan, Tennessee Attorney General's Office, Nashville, TN, George G. Boyte, Jr., Jackson, TN, for Defendants.

ORDER GRANTING PRELIMINARY INJUNCTION

JON P. McCALLA, District Judge.

On June 24, 2015, the Court entered an order granting Plaintiff Thomas' motion for an emergency temporary restraining order ("TRO"). (ECF No. 110.) On July 14, 2015, the Court held a preliminary injunction hearing to determine whether to convert the existing TRO into a preliminary injunction. (ECF No. 125.) For the reasons that follow, the Court GRANTS the preliminary injunction.

I. BACKGROUND

This case concerns alleged violations of Plaintiff William H. Thomas Jr.'s constitutional rights. Thomas alleges the Tennessee Department of Transportation ("TDOT") violated his First, Fifth, and Fourteenth Amendment rights when it removed certain of Thomas' billboards and signs displaying noncommercial content pursuant to the Billboard Regulation and Control Act of 1972 ("Billboard Act"), as set forth at Tennessee Code Annotated §§ 54-21-101 *et seq.* Thomas asserts that signs displaying noncommercial content are exempt from permit requirements pursuant to Tenn.Code Ann. § 54-21-107(a)(1) (2008).

A. Procedural Background

On December 17, 2013, Thomas filed a complaint against all Defendants. (ECF No. 1.) On February 3, 2014, Defendants filed their first motion to dismiss for lack of jurisdiction. (ECF No. 12.) Defendants moved to dismiss, *inter alia*, claim no. 4 for declaratory relief as to the Crossroads Ford sign. (*Id.* at 1.) On March 10, 2014, Defendants filed their answer to the initial complaint. (ECF No. 17.) The Court granted Thomas leave to amend the complaint as to the claim for retaliation, and dismissed as moot in part Defendants'

motion to dismiss. (ECF No. 34.) Thomas filed an amended complaint on October 1, 2014. (ECF No. 38.)

On October 10, 2014, Thomas filed an emergency motion for temporary restraining order. (ECF No. 39.) On October 13, 2014, Defendants filed a motion for dismissal of amended complaint. (ECF No. 40.) The Court denied Thomas' emergency motion for temporary restraining order as moot on October 15, 2014. (ECF No. 43.)

On October 27, 2014, Thomas filed a second amended complaint. (ECF No. 45.) Defendants filed a motion for partial dismissal of the second amended complaint on October 28, 2014. (ECF No. 46.) Thomas responded in opposition to Defendants' motion to dismiss on November 28, 2014. (ECF No. 57.) Defendants filed a reply to Thomas' response on December 15, 2014. (ECF No. 64.)

On May 22, 2015, Thomas filed a motion to amend the existing scheduling order and filed two motions to compel discovery. (ECF Nos. 86–88.) On May 22, 2015, Thomas' counsel filed a motion to withdraw as attorney (ECF No. 85), which the Court granted on June 15, 2015 (ECF No. 103). Thomas now proceeds pro se in the case. Thomas' motions to compel were referred to the Magistrate Judge for determination on June 19, 2015. (ECF Nos. 106–07.)

On June 10, 2015, Thomas filed an emergency motion for temporary restraining order, seeking to prevent Defendants from removing his sign at the Crossroads Ford location. (ECF No. 96.) Thomas also seeks to enjoin Defendants from executing any judgments “resulting [from] or associated with the Crossroads Ford billboard sign until such time as a hearing can be held on the issues. . . .” (*Id.* at 1.) On June 15, 2015, Defendants filed a response in opposition to the motion for TRO. (ECF No. 99.) On June 18, 2015, the Court held

a motion hearing regarding Thomas' TRO motion. (ECF No. 104.) On June 24, 2015, the Court entered an order granting Thomas' motion for emergency temporary restraining order (“order granting TRO”). (ECF No. 110.)

On July 8, 2015, Defendants filed supplemental briefing in opposition to issuance of a preliminary injunction. (ECF No. 118.) Thomas filed a reply brief in support of a preliminary injunction on July 13, 2015. (ECF No. 124.) The Court held a preliminary injunction hearing on July 14, 2015. (ECF No. 125.)

B. Factual Background

Defendants sought to have the Crossroads Ford sign removed through an ongoing enforcement action in Chancery Court in Shelby County, Tennessee. (ECF No. 45 ¶ 27; *see* ECF No. 96–1 at PageID 1399–1404.) In April and October of 2011, Defendants removed two of Thomas' outdoor advertising signs (the “Kate Bond” signs). (ECF No. 45 ¶¶ 33, 37; ECF No. 79 ¶¶ 33, 37.) In October 2014, Defendants removed another of Thomas' outdoor signs (the “Perkins Road sign”), even though, according to Thomas, “[the] billboard was displaying exclusively on-premise, noncommercial content and therefore exempt from the permitting requirements of T.C.A. § 54–21–107(a)(1).” (ECF No. 45 ¶ 40; ECF No. 79 ¶ 40.)

On May 26, 2015, Thomas received a letter on behalf of TDOT stating that Thomas must remove the sign structure at the Crossroads Ford location by June 26, 2015. (ECF No. 96–1 at PageID 1399.) Thomas also received a proposed order of judgment “declaring an unlawful billboard to be [a] public nuisance and granting permanent injunction for removal of the unlawful billboard,” to be subsequently submitted in Chancery Court in Shelby County, Tennessee. (*Id.* at PageID

1401–03.) Thomas filed the instant motion to prevent removal of the Crossroads Ford sign by TDOT.

II. STANDARD OF REVIEW

[1,2] “The purpose of a preliminary injunction is merely to preserve the relative positions of the parties until a trial on the merits can be held.” *Univ. of Texas v. Camenisch*, 451 U.S. 390, 395, 101 S.Ct. 1830, 68 L.Ed.2d 175 (1981). “Accordingly, a party ‘is not required to prove his case in full at a preliminary injunction hearing and the findings of fact and conclusions of law made by a court granting the preliminary injunction are not binding at trial on the merits.’” *Certified Restoration Dry Cleaning Network, L.L.C. v. Tenke Corp.*, 511 F.3d 535, 542 (6th Cir. 2007) (quoting *Camenisch*, 451 U.S. at 395, 101 S.Ct. 1830).

[3] Four factors are used by the Sixth Circuit to determine whether injunctive relief is appropriate: (1) the likelihood of success on the merits; (2) whether the injunction will save the plaintiff from irreparable injury; (3) whether the injunction would cause substantial harm to others; and (4) whether the public interest would be served by the injunction. *Id.* at 542. “These four considerations are factors to be balanced, not prerequisites that must be met.” *Id.* (internal quotation marks omitted).

[4] No one factor is dispositive; instead, the court must balance all four factors. *In re DeLorean Motor Co.*, 755 F.2d 1223, 1229 (6th Cir.1985). The burden of persuasion is on the party seeking the injunctive relief. *Stenberg v. Cheker Oil Co.*, 573 F.2d 921, 925 (6th Cir.1978).

III. ANALYSIS

A. Strong Likelihood of Success on the Merits

Thomas asserts violations of four constitutionally protected rights as grounds for

granting a TRO with regard to the Crossroads Ford sign: 1) First Amendment right to freedom of speech; 2) procedural due process; 3) substantive due process; and 4) equal protection under the law. Because Thomas has established a strong likelihood of success on First Amendment grounds, the Court declines to address the remaining constitutional grounds asserted.

1. Content-Based Speech

[5,6] “The First Amendment, applicable to the States through the Fourteenth Amendment, prohibits the enactment of laws ‘abridging the freedom of speech.’” *Reed v. Town of Gilbert, Ariz.*, — U.S. —, 135 S.Ct. 2218, 2226, 192 L.Ed.2d 236 (2015) (quoting U.S. Const. amend. I). The government “‘has no power to restrict expression because of its message, its ideas, its subject matter, or its content.’” *Id.* (quoting *Police Dept. of Chicago v. Mosley*, 408 U.S. 92, 95, 92 S.Ct. 2286, 33 L.Ed.2d 212 (1972)). “Content-based laws . . . are presumptively unconstitutional and may be justified only if the government proves that they are narrowly tailored to serve compelling state interests.” *Id.*

[7–10] On June 18, 2015, the Supreme Court issued its opinion in *Reed*, finding that certain exemptions to the town of Gilbert’s sign code were facially content-based and failed strict scrutiny analysis. In the *Reed* opinion, the Supreme Court laid out the test for determining whether a provision regulating signage was content-neutral or content-based.

Government regulation of speech is content based if a law applies to particular speech because of the topic discussed or the idea or message expressed. *E.g.*, *Sorrell v. IMS Health, Inc.*, 564 U.S. 552, 563–567, 131 S.Ct. 2653, 2663–2664, 180 L.Ed.2d 544 (2011); *Carey v. Brown*, 447 U.S. 455, 462, 100 S.Ct. 2286, 65 L.Ed.2d 263 (1980); *Mosley, supra*, at 95, 92 S.Ct. 2286. This com-

monsense meaning of the phrase “content based” requires a court to consider whether a regulation of speech “on its face” draws distinctions based on the message a speaker conveys. *Sorrell, supra*, at 565–67, 131 S.Ct., at 2664. Some facial distinctions based on a message are obvious, defining regulated speech by particular subject matter, and others are more subtle, defining regulated speech by its function or purpose. Both are distinctions drawn based on the message a speaker conveys, and, therefore, are subject to strict scrutiny.

135 S.Ct. at 2227. Additionally, the Supreme Court made clear that the first step in the analysis is to “determin[e] whether the law is content neutral on its face.” *Id.* at 2228. “A law that is content based on its face is subject to strict scrutiny regardless of the government’s benign motive, content-neutral justification, or lack of animus toward the ideas contained in the regulated speech.” *Id.* (internal quotation marks omitted). Moreover, “a speech regulation targeted at specific subject matter is content based even if it does not discriminate among viewpoints within that subject matter.” *Id.* at 2230. In *Reed*, the Supreme Court also gave examples of aspects of signs that could be regulated in a content-neutral manner, including “size, building materials, lighting, moving parts, and portability.” *Id.* at 2232.

With regard to the sign code exemptions at issue in *Reed*, the Supreme Court explained,

The Town’s Sign Code is content based on its face. It defines “Temporary Directional Signs” on the basis of whether a sign conveys the message of directing the public to church or some other “qualifying event.” Glossary 25. It defines “Political Signs” on the basis of whether a sign’s message is “designed to influence the outcome of an election.” *Id.*, at 24. And it defines “Ideological Signs” on the basis of whether a sign

“communicat[es] a message or ideas” that do not fit within the Code’s other categories. *Id.*, at 23. It then subjects each of these categories to different restrictions.

The restrictions in the Sign Code that apply to any given sign thus depend entirely on the communicative content of the sign. If a sign informs its reader of the time and place a book club will discuss John Locke’s *Two Treatises of Government*, that sign will be treated differently from a sign expressing the view that one should vote for one of Locke’s followers in an upcoming election, and both signs will be treated differently from a sign expressing an ideological view rooted in Locke’s theory of government.

135 S.Ct. at 2227.

[11] In the Court’s order granting TRO, the Court found that “[m]ultiple provisions of the Billboard Act are affected by the constitutional analysis set forth in *Reed*.” (ECF No. 110 at 8.) These provisions included 1) the on-premise exemption codified in § 54–21–107(a)(1); 2) § 54–21–107(a)(2), which exempts from regulation signs that “advertis[e] the sale or lease of property on which they are located;” 3) § 54–21–103(1), which provides an exception for “[d]irectional or other official signs and notices including, but not limited to, signs and notices pertaining to natural wonders, scenic and historical attractions that are authorized or required by law;” and 4) §§ 54–21–103(2)–(3), which provide exceptions that mirror the content-based exemptions in §§ 107(a)(1)–(2). (ECF No. 110 at 8–9.)

Defendants argue that these provisions are not content-based. Defendants aver that the on-premise distinction is content neutral because “it is entirely based on location or placement of the signs. An on-premise sign is one that is on the premis-

es of an establishment, whereas an off-premises sign does not have a premises as such. It is logical to distinguish between the two by reference to place.” (ECF No. 118 at 6.) Defendants further assert that the on-premise distinction survives *Reed* and is consistent with the Supreme Court’s decision in *Metromedia, Inc. v. San Diego*, 453 U.S. 490, 101 S.Ct. 2882, 69 L.Ed.2d 800 (1981). (*Id.* at 6.) Defendants also point to Justice Alito’s concurring opinion in *Reed* in support of their argument for content-neutrality, which states explicitly that “[r]ules distinguishing between on-premises and off-premises signs” are not content based. (*Id.* at 6–7.)

Notwithstanding Defendants’ supplemental arguments, the rationale applied by the Court in the order granting TRO still applies: “[t]he only way to determine whether a sign is an on-premise sign, is to consider the content of the sign and determine whether that content is sufficiently related to the ‘activities conducted on the property on which they are located.’” (ECF No. 110 at 8 (quoting § 107(a)(1)).) This conclusion is compelled by the face of the statute and is reinforced by the testimony given by Shawn Bible, head of the Beautification Office at TDOT, during the TRO motion hearing.¹ Bible described a two part test that her department used for determining whether a sign is an on-premise sign. First, the sign “has to be on that property where the activity is taking place. . . .” (ECF No. 121 at 15.) Second, the sign “has to be advertising or speaking up for the things going on there at that premise.” (*Id.* at 15–16.) Bible further explained that the messages on the signs “have to be attached to that activity,” i.e., the activity taking place on the property. (*Id.* at 16.) Bible gave multiple examples of messages on signs that were sufficiently related to the activities on the property for

her department to consider the signs on-premise signs. (*Id.* at 16–18.) Bible’s testimony confirms that whether analyzing the on-premise exemption on its face or as applied in practice, the content or message of the sign must be considered to determine whether a sign is on-premise.

Additionally, Justice Alito’s concurrence in *Reed* is inapposite to the instant analysis. Not only is the concurrence not binding precedent, but the concurrence fails to provide any analytical background as to why an on-premise exemption would be content neutral. The concurrence’s unsupported conclusions ring hollow in light of the majority opinion’s clear instruction that “a speech regulation targeted at specific subject matter is content based even if it does not discriminate among viewpoints within that subject matter.” *Reed*, 135 S.Ct. at 2230.

The preceding analysis applies equally to the determination of whether a sign is directional; pertains to natural wonders or scenic and historical attractions; or advertises the sale or lease of property on which it is located. Accordingly, under the *Reed* test, §§ 54–21–107(a)(1)–(2), 54–21–103(1)–(3) of the Billboard Act are likely content-based.

2. Strict Scrutiny

[12–14] Once the Court determines that provisions of the Billboard Act are content-based, the Court must apply strict scrutiny to determine whether those provisions pass constitutional muster. Content-based provisions will fail constitutional muster if the Government cannot demonstrate that the divergence in regulations based on the content of the signs “furthers a compelling governmental interest and is narrowly tailored to that end.” *Reed*, 135 S.Ct. at 2231. A law regulating speech is

1. During the preliminary injunction hearing, Defendants introduced transcripts from the

TRO hearing as evidence. (See ECF No. 126 at 1.)

not narrowly tailored if it is either underinclusive or overinclusive. *See Reed*, 135 S.Ct. at 2231–32; *Simon & Schuster, Inc. v. Members of New York State Crime Victims Bd.*, 502 U.S. 105, 121–23, 112 S.Ct. 501, 116 L.Ed.2d 476 (1991) (finding that a New York state law was not narrowly tailored due to its overinclusiveness).

In the instant case, Defendants assert that the Billboard Act serves the following governmental interests: 1) driver safety; 2) the public’s investment in highways; 3) the promotion of recreational value of public travel and natural beauty; and 4) the continuation of adequate federal funding. Defendants argue that these interests “in combination constitute a compelling State interest.” (ECF No. 118 at 12.)

Defendants also argue that the Billboard Act is narrowly tailored because the government’s interests are “achieved more effectively with The Billboard Act.” (*Id.* at 11.) Defendants aver that the Billboard Act is not overinclusive because it does not “discriminat[e] between any category of speech,” and is not underinclusive because the Billboard Act “restricts according to location, not category while respecting the rights of property owners to advertise their activities.” (*Id.* at 13.) Defendants aver that “without the [Billboard] Act, there would be a significant proliferation of outdoor advertising.” (*Id.* at 11.) Defendants assert that the “visual clutter [] would be a blight on our highways and would block out the scenic beauty that has been revealed and protected during the 40+ years that The Billboard Act has been in effect.” (*Id.*) Additionally, Defendants assert that “[t]he unregulated proliferation of outdoor advertising would also be dangerously distracting and . . . visually blinding, for ordinary drivers traveling at high speeds on State and interstate highways.” (*Id.*)

In light of the explicit analysis in *Reed* that addresses some of the same interests

and issues raised in the instant case, the Court is compelled to reject Defendants’ arguments that the content-based provisions of the Billboard Act survive strict scrutiny. The Court agrees with Defendants that at least the governmental interest in driver safety is a compelling interest. Defendants’ arguments that the Billboard Act is narrowly tailored, however, miss the mark. Without determining whether the stated governmental interests were compelling interests, the Supreme Court found the sign code provisions at issue in *Reed* to be “hopelessly underinclusive.” 135 S.Ct. at 2231. With regard to the governmental interest in traffic safety, the Supreme Court explained that the respondents had failed to “show[] that limiting temporary directional signs is necessary to eliminate threats to traffic safety, but that limiting other types of signs is not.” *Id.* at 2232. As to the governmental interest in preservation of aesthetics, the Supreme Court stated that “temporary directional signs are ‘no greater an eyesore’ . . . than ideological or political ones.” *Id.* at 2231 (internal citations omitted).

The issue of underinclusiveness in the instant case does not relate to whether the location restrictions are narrowly tailored, but rather, whether the differentiation between signs of varying content “furthers a compelling governmental interest and is narrowly tailored to that end.” *See id.* Consequently, Defendants’ argument that the Billboard Act “restricts according to location, not category while respecting the rights of property owners to advertise their activities” is inapposite to the instant analysis.

[15] Similar to the petitioners in *Reed*, Defendants have failed to establish that limiting off-premise signs results in greater driver safety than limiting signs “advertising activities conducted on the property

on which they are located.” *See* § 107(a)(1). Nor have Defendants shown that imposing more stringent restrictions on off-premise signage affords superior protection of the public’s investment in the highways or increases the promotion of recreational value of public travel and natural beauty. The same reasoning applies to preferential treatment of directional signs, signs advertising the sale or lease of property on which they are located, and signs pertaining to natural wonders and scenic and historical attractions.

Additionally, concerns raised by Defendants that visual clutter and overcrowding of signs will adversely affect the stated governmental interests only bear on the present analysis if Defendants can show that regulation of one type of content will reduce overcrowding more effectively than regulation of other types of content. Defendants have not made this showing. Simply, Defendants have not established that differentiation of content would have any effect on the first three stated governmental interests. Accordingly, the Billboard Act, like the ordinance provisions in *Reed*, is hopelessly underinclusive.

[16] With regard to the fourth governmental interest—to continue adequate federal funding—Defendants aver that TDOT could lose federal funding if the Billboard Act is found to be unconstitutional. (ECF No. 118 at 11.) During the TRO hearing, Bible testified that failure to “have a billboard law and effectively control outdoor advertising” would result in a ten percent reduction of the federal transportation funds. (ECF No. 121 at 29.) For this reason, Defendants assert, “the Billboard Act tracks the Federal Highway Beautification Act almost to the letter.” (ECF No. 118 at 13.) In further support of this argument, Defendants have submitted an email that Shawn Bible received from an employee of the Federal Highway Administration (“FHWA”). (ECF No. 127.)

The email states in relevant part that “the Supreme Court did not rule on the constitutionality of the HBA but rather on a city ordinance that controlled signs within the small town of Gilbert; therefore, we still have a valid federal law that the States are supposed to enforce as a condition of receiving all their Federal-aid highway funding.” (*Id.* at 3.)

Although the submitted email shows that at this point in time the FHWA intends to enforce the Highway Beautification Act against the States, Defendants fail to provide adequate explanation as to how the federal government would be able to constitutionally withhold federal highway funds from a state on the basis that the state failed to engage in conduct that violates the United States Constitution. Consequently, the fourth governmental interest is not relevant to the issues presently before the Court, nor is it a compelling interest for the purposes of a strict scrutiny analysis.

For these reasons, there is a strong likelihood that at least §§ 54–21–103(1)–(3) and §§ 54–21–107(a)(1)–(2) of the Billboard Act are unconstitutional.

3. Severability

[17–22] Typically, when a portion of a state law is found to be unconstitutional, the Court will sever that portion from the remaining constitutional portions of the law. *Ayotte v. Planned Parenthood of N. New England*, 546 U.S. 320, 328–29, 126 S.Ct. 961, 163 L.Ed.2d 812 (2006) (“Generally speaking, when confronting a constitutional flaw in a statute, we try to limit the solution to the problem. We prefer, for example, to enjoin only the unconstitutional applications of a statute while leaving other applications in force . . . or to sever its problematic portions while leaving the remainder intact. . . .”). In determining severability, “[f]irst, the Court seeks to avoid ‘nullify[ing] more of a legislature’s

work than is necessary,' because doing so 'frustrates the intent of the elected representatives of the people.' For this reason where partial, rather than facial, invalidation is possible, it is the 'required course.'" *Northland Family Planning Clinic, Inc. v. Cox*, 487 F.3d 323, 333 (6th Cir.2007) (quoting *Ayotte*, 546 U.S. at 329, 126 S.Ct. 961). Second, "mindful that [the Court's] constitutional mandate and institutional competence are limited, [the Court] restrain[s] [itself] from rewriting state law to conform it to constitutional requirements even as [the Court] strive[s] to salvage it." *Ayotte*, 546 U.S. at 329, 126 S.Ct. 961 (internal alteration and quotation marks omitted). "[W]here the Court has established a bright line constitutional rule, it is more appropriate to invalidate parts of the statute that go beyond the constitutional line, whereas 'making distinctions in a murky constitutional context, or where line-drawing is inherently complex, may call for a "far more serious invasion of the legislative domain" than we ought to undertake.'" *Northland Family Planning Clinic*, 487 F.3d at 333 (quoting *Ayotte*, 546 U.S. at 330, 126 S.Ct. 961). "Finally, the Court considers legislative intent, and inquires whether the legislature would prefer to have part of the statute remain in force." *Id.* "A court's conclusion that the legislature would have enacted a statute absent an unconstitutional provision must be based on evidence that is obvious on the 'face of the statute' . . . ; otherwise the court risks overstepping into functions reserved for the legislature." *E. Brooks Books, Inc. v. City of Memphis*, 633 F.3d 459, 466 (6th Cir.2011) (quoting *Memphis Planned Parenthood, Inc. v. Sundquist*, 175 F.3d 456, 466 (6th Cir.1999)).

[23–25] In the instant case, the third factor controls. Under Tennessee law, severance of unconstitutional portions of a statute is generally disfavored. *Davidson Cnty. v. Elrod*, 191 Tenn. 109, 232 S.W.2d 1, 2–3 (1950); see also *E. Brooks Books*,

633 F.3d at 466. "Tennessee law permits severance only when 'it is made to appear from the face of the statute that the legislature would have enacted it with the objectionable features omitted.'" *Memphis Planned Parenthood*, 175 F.3d at 466 (quoting *State v. Harmon*, 882 S.W.2d 352, 355 (Tenn.1994)). It follows then, that the question in the instant case is whether it appears on the face of the Billboard Act that the Tennessee General Assembly would have passed the statute without the content-based provisions in the Billboard Act. See *id.*

In the instant case, Thomas has shown a strong likelihood that § 54–21–103(1) and §§ 54–21–107(a)(1)–(2) are unconstitutional under the *Reed* test. See *supra* Part III. A.1–2. Section 103 of the Billboard Act establishes general restrictions of and exceptions to the Act. Section 107 sets out advertising that is exempt from regulation under the Billboard Act. These sections guide the fundamental determination of which signs are subject to regulation under the Billboard Act. The remaining sections of the Billboard Act deal with the minutiae of executing the Act, rather than determining substantive compliance, and are generally dependent on sections 107 and 103. For example, § 54–21–104 provides guidelines for issuing licenses and permits based on compliance with § 103 and assuming § 107 does not apply. Section 105 addresses the remedies and consequences of failing to comply with § 103. Section 106 deals with the handling of fees collected in connection with permitting under § 104. Section 108 outlines the commissioner's authority to acquire certain outdoor advertising. These sections lie on the periphery of § 103 and § 107, which establish the regulatory base for all signs erected "within six hundred sixty feet (660') of the nearest edge of the right-of-way and visible from the main traveled way of the interstate or primary highway

systems” in the State of Tennessee. Given the various competing interests and constitutional constraints on the regulation of this type of speech, it is not clear on the face of the statute that the Tennessee legislature would have enacted the Billboard Act absent these key provisions establishing the overall applicability of the statute.

The same reasoning applies to the first and second factors for determining severability. Removing the basic guidelines for determining whether a sign is regulated under the Act, oversteps the line between preserving the “legislature’s work” and “rewriting state law to conform it to constitutional requirements.” *See Northland Family Planning Clinic*, 487 F.3d at 333. Under these circumstances, partial invalidation is not possible. *See id.* Accordingly, there is a strong likelihood that the unconstitutional provisions of the Billboard Act are not severable from the Act as a whole.

For these reasons, Thomas has established a strong likelihood that the Billboard Act is an unconstitutional restraint on freedom of speech pursuant to the First Amendment.

B. Irreparable Injury

[26, 27] “The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.” *Elrod v. Burns*, 427 U.S. 347, 373, 96 S.Ct. 2673, 49 L.Ed.2d 547 (1976). In the instant case, “Defendants concede that, if Plaintiff is correct, and the Crossroads Ford billboard, in its current format as non-commercial message, is entitled to First Amendment protections, then there would potentially be irreparable harm if said billboard is removed.” (ECF No. 118 at 16.) Because Thomas has established a strong likelihood that removal of the Crossroads Ford sign pursuant to the Billboard Act is unconstitutional, the Court finds that Thomas would suffer irreparable

injury absent issuance of a preliminary injunction.

C. Substantial Harm to Others

[28] With regard to substantial harm to others, Defendants argue that “there is a real threat to the safety and aesthetics of the highways, plus significant loss of federal funding.” (ECF No. 118 at 17.) Additionally, Defendants assert that “the public in general has an interest in stability in the laws and in seeing that the laws of the State are properly followed.” (*Id.*) Thomas contends that “[t]he government cannot allege that it will be harmed by allowing citizens and organizations to exercise their free speech rights without constraint of unconstitutional sign restrictions.” (ECF No. 96 at 36.)

The Court agrees with Thomas. The harm to Thomas’ First Amendment rights “should the preliminary injunction not be issued must be weighed against the harm to others from the granting of the injunction.” *See United Food & Commercial Workers Union, Local 1099 v. Sw. Ohio Regl Transit Auth.*, 163 F.3d 341, 363 (6th Cir.1998). In the instant case, Thomas has established a strong likelihood that the Billboard Act is unconstitutional and that he would suffer irreparable harm should TDOT act against Thomas pursuant to the Act.

[29] In contrast, the potential harm to others is relatively slight. A preliminary injunction merely “preserve[s] the relative positions of the parties,” and “findings of fact and conclusions of law made by a court granting a preliminary injunction are not binding at trial on the merits...” *Camenisch*, 451 U.S. at 395, 101 S.Ct. 1830 (internal citations omitted). Moreover, the scope of the instant Order is limited to the Crossroads Ford sign and its related proceedings. Consequently, TDOT will not

be prohibited from enforcing the Billboard Act as to other signs.

Even if this Order had the effect of declaring the entire Billboard Act unconstitutional, the potential harm to Thomas would outweigh the concerns raised by Defendants. All of the concerns raised by Defendants—threat to safety, threat to aesthetics, and loss of federal funding—are consequences that arise from the unconstitutionality of the Billboard Act, not the issuance of injunctive relief. Because the scope of the injunction is limited to the Crossroads Ford sign, only individuals that view or are in some other way affected by the Crossroads Ford sign could suffer harm as a result of issuance of an injunction. Harm to public safety and aesthetics is, therefore, of limited significance in the present analysis. Accordingly, this factor does not weigh in Defendants' favor.

D. Public Interest

[30, 31] “[I]t is always in the public interest to prevent violation of a party’s constitutional rights.” *Deja Vu of Nashville, Inc. v. Metro. Gov’t of Nashville & Davidson Cnty., Tenn.*, 274 F.3d 377, 400 (6th Cir.2001) (internal quotation marks omitted). Because Thomas has established a strong likelihood that removal of the Crossroads Ford sign pursuant to the Billboard Act is unconstitutional, the public interest also favors issuance of a TRO.

E. Balance of the Factors

Having considered the relevant preliminary injunction factors, the Court finds that they weigh in favor of issuance of a preliminary injunction.

F. Anti-Injunction Act

[32] In Defendants’ response in opposition to Thomas’ motion for emergency temporary restraining order, Defendants allude to the Anti-Injunction Act, 28 U.S.C. § 2283, as being applicable to the

relief sought in Thomas’ motion. Specifically, Defendants assert that Thomas seeks to nullify the Tennessee Court of Appeals’ ruling in favor of Defendants and that “it would violate principles of federalism” to reverse the Court of Appeals’ ruling. (ECF No. 99 at 3–4.)

The Court’s analysis regarding the Anti-Injunction Act in the order granting TRO applies equally to the instant order. Although in most cases it would be inappropriate for a federal district court to enjoin state court proceedings, the Supreme Court has held explicitly that “§ 1983 is an Act of Congress that falls within the ‘expressly authorized’ exception of [the Anti-Injunction Act].” *Mitchum v. Foster*, 407 U.S. 225, 243, 92 S.Ct. 2151, 32 L.Ed.2d 705 (1972). Accordingly, the relief sought by Thomas does not exceed the limits of authority granted to federal courts.

IV. CONCLUSION

For the reasons stated above, the Court converts the existing temporary restraining order into a preliminary injunction. The Court hereby ENJOINS Defendants, or any of their employees, subordinates, agents or others acting on their behalf, from 1) removing or seeking by order or other means to remove Thomas’ sign at the Crossroads Ford location; and 2) from seeking to execute on any judgments, orders, or other monetary judgments resulting or associated with the Crossroads Ford billboard sign until such time as the Court determines that the preliminary injunction should be lifted.



better. As a preliminary matter, perhaps because Olanders D.'s questionnaire has been lost, the Court characterizes the prosecution's second proffered reason for dismissing Olanders D. as an objection to *all* of his "responses" as opposed to simply the responses on his *questionnaire*. *Ante*, at 2200. But even if the prosecution had relied on the rationale that the Court now substitutes, there is a real likelihood that the defense would still have been able to undermine its credibility.

The Court asserts that Olanders D.'s "responses" were misleading because he had "unequivocally" stated that he did not believe in the death penalty on his questionnaire, but at *voir dire* he said that his views on capital punishment had changed over the previous 10 years. *Ante*, at 2202. The Court's argument thus hinges on the premise that Olanders D.'s questionnaire clearly stated that he was opposed to the death penalty. At least one person, however, did not construe Olanders D.'s questionnaire to express such a categorical view: defense counsel. During *voir dire*, one of Ayala's lawyers remarked that she thought Olanders D.'s questionnaire "indicated that [he] had had some change in [his] feelings about the death penalty." App. 176. "[M]y understanding," she said, "is that at one time [he] felt one way, and—and then at some point [he] felt differently." *Ibid*. Thus, if (as the Court now hypothesizes) the trial court was inclined to accept the prosecution's second reason for striking Olanders D. based on apparent tension between his questionnaire and his statements during *voir dire* (a proposition that is itself uncertain), the defense may have been able to argue persuasively that any claimed inconsistency was illusory.

* * *

Batson recognized that it is fundamentally unfair to permit racial considerations to drive the use of preemptory challenges

against jurors. When the prosecution strikes every potential black and Hispanic juror, a reviewing court has a responsibility to ensure that the trial court's denial of the defendant's *Batson* motion was not influenced by constitutional error. But there is neither a factual nor a legal basis for the Court's confidence that the prosecution's race-neutral reasons for striking Olanders D. were unassailable. Because the Court overlooks that Ayala raised a procedural *Batson* claim, it scours the record for possible support for the trial court's credibility determination without accounting for the flaws in the process that led to it. The proper inquiry is not whether the trial court's determination can be sustained, but whether it may have been different had counsel been present. Given the strength of Ayala's prima facie case and the arguments his counsel would have been able to make based even on the limited existing record, grave doubts exist as to whether counsel's exclusion from Ayala's *Batson* hearings was harmless. Accordingly, I respectfully dissent.



Clyde REED, et al., Petitioners

v.

TOWN OF GILBERT, ARIZONA, et al.

No. 13–502.

Argued Jan. 12, 2015.

Decided June 18, 2015.

Background: Church and pastor seeking to place temporary signs announcing services filed suit claiming that town's sign ordinance, restricting size, duration, and location of temporary directional signs vio-

lated the right to free speech. The United States District Court for the District of Arizona, Susan R. Bolton, J., denied church's motion for preliminary injunction barring enforcement of ordinance. Church appealed. The United States Court of Appeals for the Ninth Circuit, M. Margaret McKeown, Circuit Judge, 587 F.3d 966, affirmed in part and remanded in part. On remand, the District Court, Bolton, J., 832 F.Supp.2d 1070, granted town summary judgment. Church and pastor appealed. The Court of Appeals, Callahan, Circuit Judge, 707 F.3d 1057, affirmed. Certiorari was granted.

Holdings: The Supreme Court, Justice Thomas, held that:

- (1) sign code was subject to strict scrutiny, and
- (2) sign code violated free speech guarantees.

Reversed and remanded.

Justice Alito filed concurring opinion in which Justices Kennedy and Sotomayor joined.

Justice Breyer filed opinion concurring in the judgment.

Justice Kagan filed opinion concurring in the judgment, in which Justices Ginsburg and Breyer joined.

1. Constitutional Law ⇌1507, 1517

Under the First Amendment, a government, including a municipal government vested with state authority, has no power to restrict expression because of its message, its ideas, its subject matter, or its content. U.S.C.A. Const.Amend. 1.

2. Constitutional Law ⇌1517, 1518

Content-based laws, that is, those that target speech based on its communicative content, are presumptively unconstitutional and may be justified only if the government proves that they are narrowly tai-

lored to serve compelling state interests. U.S.C.A. Const.Amend. 1.

3. Constitutional Law ⇌1517

Government regulation of speech is "content based," and thus presumptively unconstitutional, if a law applies to particular speech because of the topic discussed or the idea or message expressed, and this commonsense meaning of the phrase "content based" requires a court to consider whether a regulation of speech on its face draws distinctions based on the message a speaker conveys. U.S.C.A. Const.Amend. 1.

See publication Words and Phrases for other judicial constructions and definitions.

4. Constitutional Law ⇌1506, 1518

Some facial distinctions based on a message are obvious, defining regulated speech by particular subject matter, and others are more subtle, defining regulated speech by its function or purpose, but both are distinctions drawn based on the message a speaker conveys, and, therefore, are subject to strict scrutiny. U.S.C.A. Const. Amend. 1.

5. Constitutional Law ⇌1513, 1518

Laws that, though facially content neutral, cannot be justified without reference to the content of the regulated speech, or that were adopted by the government because of disagreement with the message the speech conveys, like those laws that are content based on their face, must satisfy strict scrutiny. U.S.C.A. Const.Amend. 1.

6. Constitutional Law ⇌1664

Town's sign code, which subjected ideological signs to certain restrictions, subjected political signs to greater restrictions, and subjected temporary directional signs relating to events to even greater restrictions, was content based on its face,

and thus was subject to strict scrutiny in free speech challenge by church seeking to place temporary signs announcing its services; any innocent motives on part of town did not eliminate danger of censorship, sign code singled out specific subject matter for differential treatment even if it did not target viewpoints within that subject matter, and sign code singled out signs bearing a particular message, i.e., the time and location of a particular event. U.S.C.A. Const.Amend. 1.

7. Constitutional Law ⇌1512

The crucial first step in the content-neutrality analysis in a free speech challenge is determining whether the law is content neutral on its face. U.S.C.A. Const.Amend. 1.

8. Constitutional Law ⇌1518

A law that is content based on its face is subject to strict scrutiny regardless of the government's benign motive, content-neutral justification, or lack of animus toward the ideas contained in the regulated speech. U.S.C.A. Const.Amend. 1.

9. Constitutional Law ⇌1490, 1499

Illicit legislative intent is not the sine qua non of a violation of the First Amendment's free speech guarantee, and a party opposing the government need adduce no evidence of an improper censorial motive. U.S.C.A. Const.Amend. 1.

10. Constitutional Law ⇌1518

Although a content-based purpose may be sufficient in certain circumstances to show that a regulation of speech is content based and thus subject to strict scrutiny, it is not necessary. U.S.C.A. Const.Amend. 1.

11. Constitutional Law ⇌1518

An innocuous justification cannot transform a facially content-based law regulating speech into one that is content

neutral and thus subject to a lower level of scrutiny than strict scrutiny. U.S.C.A. Const.Amend. 1.

12. Constitutional Law ⇌1512, 1518

Because strict scrutiny applies either when a law is content based on its face or when the purpose and justification for the law are content based, a court must evaluate each question before it concludes that the law is content neutral and thus subject to a lower level of scrutiny in a free speech challenge. U.S.C.A. Const.Amend. 1.

13. Constitutional Law ⇌1517

Government discrimination among viewpoints, or the regulation of speech based on the specific motivating ideology or the opinion or perspective of the speaker, is a more blatant and egregious form of content discrimination, but the First Amendment's hostility to content-based regulation extends not only to restrictions on particular viewpoints, but also to prohibition of public discussion of an entire topic. U.S.C.A. Const.Amend. 1.

14. Constitutional Law ⇌1518

A speech regulation targeted at specific subject matter is content based, and thus subject to strict scrutiny, even if it does not discriminate among viewpoints within that subject matter. U.S.C.A. Const.Amend. 1.

15. Constitutional Law ⇌1512

The fact that a speech-related distinction is speaker based does not automatically render the distinction content neutral and thus subject to a lower level of scrutiny than strict scrutiny. U.S.C.A. Const.Amend. 1.

16. Constitutional Law ⇌1518

Because speech restrictions based on the identity of the speaker are all too often simply a means to control content, laws favoring some speakers over others de-

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mand strict scrutiny when the legislature's speaker preference reflects a content preference. U.S.C.A. Const.Amend. 1.

17. Constitutional Law ⇌1512

The fact that a speech-related distinction is event based does not render it content neutral and thus subject to a lower level of scrutiny than strict scrutiny. U.S.C.A. Const.Amend. 1.

18. Constitutional Law ⇌1506

Strict scrutiny requires the Government to prove that a restriction on speech furthers a compelling interest and is narrowly tailored to achieve that interest. U.S.C.A. Const.Amend. 1.

19. Constitutional Law ⇌1664**Municipal Corporations** ⇌602

Town's content-based sign code, which subjected ideological signs to certain restrictions, subjected political signs to greater restrictions, and subjected temporary directional signs relating to events to even greater restrictions, did not survive strict scrutiny, and thus violated free speech guarantees; even if town had compelling government interests in preserving town's aesthetic appeal and traffic safety, sign code's distinctions were underinclusive, and thus were not narrowly tailored to achieve that end, in that temporary directional signs were no greater an eyesore than ideological or political ones, and there was no reason to believe that directional signs posed a greater threat to safety than ideological or political signs. U.S.C.A. Const.Amend. 1.

20. Constitutional Law ⇌1490

A law cannot be regarded as protecting an interest of the highest order, and thus as justifying a restriction on truthful speech, when it leaves appreciable damage

to that supposedly vital interest unprohibited. U.S.C.A. Const.Amend. 1.

21. Constitutional Law ⇌1506, 1512, 1518

Not all speech-related distinctions are subject to strict scrutiny, only content-based ones are; laws that are content neutral are instead subject to lesser scrutiny. U.S.C.A. Const.Amend. 1.

Syllabus *

Gilbert, Arizona (Town), has a comprehensive code (Sign Code or Code) that prohibits the display of outdoor signs without a permit, but exempts 23 categories of signs, including three relevant here. "Ideological Signs," defined as signs "communicating a message or ideas" that do not fit in any other Sign Code category, may be up to 20 square feet and have no placement or time restrictions. "Political Signs," defined as signs "designed to influence the outcome of an election," may be up to 32 square feet and may only be displayed during an election season. "Temporary Directional Signs," defined as signs directing the public to a church or other "qualifying event," have even greater restrictions: No more than four of the signs, limited to six square feet, may be on a single property at any time, and signs may be displayed no more than 12 hours before the "qualifying event" and 1 hour after.

Petitioners, Good News Community Church (Church) and its pastor, Clyde Reed, whose Sunday church services are held at various temporary locations in and near the Town, posted signs early each Saturday bearing the Church name and the time and location of the next service and did not remove the signs until around

* The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of

the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U.S. 321, 337, 26 S.Ct. 282, 50 L.Ed. 499.

midday Sunday. The Church was cited for exceeding the time limits for displaying temporary directional signs and for failing to include an event date on the signs. Unable to reach an accommodation with the Town, petitioners filed suit, claiming that the Code abridged their freedom of speech. The District Court denied their motion for a preliminary injunction, and the Ninth Circuit affirmed, ultimately concluding that the Code's sign categories were content neutral, and that the Code satisfied the intermediate scrutiny accorded to content-neutral regulations of speech.

Held: The Sign Code's provisions are content-based regulations of speech that do not survive strict scrutiny. Pp. 2226 – 2233.

(a) Because content-based laws target speech based on its communicative content, they are presumptively unconstitutional and may be justified only if the government proves that they are narrowly tailored to serve compelling state interests. *E.g., R.A.V. v. St. Paul*, 505 U.S. 377, 395, 112 S.Ct. 2538, 120 L.Ed.2d 305. Speech regulation is content based if a law applies to particular speech because of the topic discussed or the idea or message expressed. *E.g., Sorrell v. IMS Health, Inc.*, 564 U.S. —, —, 131 S.Ct. 2653, 2663–2664, 180 L.Ed.2d 544. And courts are required to consider whether a regulation of speech “on its face” draws distinctions based on the message a speaker conveys. *Id.*, at —, 131 S.Ct., at 2664. Whether laws define regulated speech by particular subject matter or by its function or purpose, they are subject to strict scrutiny. The same is true for laws that, though facially content neutral, cannot be “‘justified without reference to the content of the regulated speech,’” or were adopted by the government “because of disagreement with the message” conveyed. *Ward v. Rock Against Racism*, 491 U.S. 781, 791,

109 S.Ct. 2746, 105 L.Ed.2d 661. Pp. 2226 – 2227.

(b) The Sign Code is content based on its face. It defines the categories of temporary, political, and ideological signs on the basis of their messages and then subjects each category to different restrictions. The restrictions applied thus depend entirely on the sign's communicative content. Because the Code, on its face, is a content-based regulation of speech, there is no need to consider the government's justifications or purposes for enacting the Code to determine whether it is subject to strict scrutiny. P. 2227.

(c) None of the Ninth Circuit's theories for its contrary holding is persuasive. Its conclusion that the Town's regulation was not based on a disagreement with the message conveyed skips the crucial first step in the content-neutrality analysis: determining whether the law is content neutral on its face. A law that is content based on its face is subject to strict scrutiny regardless of the government's benign motive, content-neutral justification, or lack of “animus toward the ideas contained” in the regulated speech. *Cincinnati v. Discovery Network, Inc.*, 507 U.S. 410, 429, 113 S.Ct. 1505, 123 L.Ed.2d 99. Thus, an innocuous justification cannot transform a facially content-based law into one that is content neutral. A court must evaluate each question—whether a law is content based on its face and whether the purpose and justification for the law are content based—before concluding that a law is content neutral. *Ward* does not require otherwise, for its framework applies only to a content-neutral statute.

The Ninth Circuit's conclusion that the Sign Code does not single out any idea or viewpoint for discrimination conflates two distinct but related limitations that the First Amendment places on government

regulation of speech. Government discrimination among viewpoints is a “more blatant” and “egregious form of content discrimination,” *Rosenberger v. Rector and Visitors of Univ. of Va.*, 515 U.S. 819, 829, 115 S.Ct. 2510, 132 L.Ed.2d 700, but “[t]he First Amendment’s hostility to content-based regulation [also] extends . . . to prohibition of public discussion of an entire topic,” *Consolidated Edison Co. of N.Y. v. Public Serv. Comm’n of N. Y.*, 447 U.S. 530, 537, 100 S.Ct. 2326, 65 L.Ed.2d 319. The Sign Code, a paradigmatic example of content-based discrimination, singles out specific subject matter for differential treatment, even if it does not target viewpoints within that subject matter.

The Ninth Circuit also erred in concluding that the Sign Code was not content based because it made only speaker-based and event-based distinctions. The Code’s categories are not speaker-based—the restrictions for political, ideological, and temporary event signs apply equally no matter who sponsors them. And even if the sign categories were speaker based, that would not automatically render the law content neutral. Rather, “laws favoring some speakers over others demand strict scrutiny when the legislature’s speaker preference reflects a content preference.” *Turner Broadcasting System, Inc. v. FCC*, 512 U.S. 622, 658, 114 S.Ct. 2445, 129 L.Ed.2d 497. This same analysis applies to event-based distinctions. Pp. 2227 – 2231.

(d) The Sign Code’s content-based restrictions do not survive strict scrutiny because the Town has not demonstrated that the Code’s differentiation between temporary directional signs and other types of signs furthers a compelling governmental interest and is narrowly tailored to that end. See *Arizona Free Enterprise Club’s Freedom Club PAC v. Bennett*, 564 U.S. —, —, 131 S.Ct. 2806, 2817, 180 L.Ed.2d 664. Assuming that the Town has a compelling interest in preserving its

aesthetic appeal and traffic safety, the Code’s distinctions are highly underinclusive. The Town cannot claim that placing strict limits on temporary directional signs is necessary to beautify the Town when other types of signs create the same problem. See *Discovery Network, supra*, at 425, 113 S.Ct. 1505. Nor has it shown that temporary directional signs pose a greater threat to public safety than ideological or political signs. Pp. 2231 – 2232.

(e) This decision will not prevent governments from enacting effective sign laws. The Town has ample content-neutral options available to resolve problems with safety and aesthetics, including regulating size, building materials, lighting, moving parts, and portability. And the Town may be able to forbid postings on public property, so long as it does so in an evenhanded, content-neutral manner. See *Members of City Council of Los Angeles v. Taxpayers for Vincent*, 466 U.S. 789, 817, 104 S.Ct. 2118, 80 L.Ed.2d 772. An ordinance narrowly tailored to the challenges of protecting the safety of pedestrians, drivers, and passengers—*e.g.*, warning signs marking hazards on private property or signs directing traffic—might also survive strict scrutiny. Pp. 2232 – 2233.

707 F.3d 1057, reversed and remanded.

THOMAS, J., delivered the opinion of the Court, in which ROBERTS, C.J., and SCALIA, KENNEDY, ALITO, and SOTOMAYOR, JJ., joined. ALITO, J., filed a concurring opinion, in which KENNEDY and SOTOMAYOR, JJ., joined. BREYER, J., filed an opinion concurring in the judgment. KAGAN, J., filed an opinion concurring in the judgment, in which GINSBURG and BREYER, JJ., joined.

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Eric J. Feigin, Washington, DC, for the United States as amicus curiae, by special leave of the Court, supporting neither party.

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For U.S. Supreme Court briefs, see:

2014 WL 7145497 (Reply.Brief)

2014 WL 4631957 (Pet.Brief)

2014 WL 6466937 (Resp.Brief)

Justice THOMAS delivered the opinion of the Court.

The town of Gilbert, Arizona (or Town), has adopted a comprehensive code governing the manner in which people may display outdoor signs. Gilbert, Ariz., Land Development Code (Sign Code or Code), ch. 1, § 4.402 (2005).¹ The Sign Code identifies various categories of signs based on the type of information they convey, then subjects each category to different restrictions. One of the categories is “Temporary Directional Signs Relating to a Qualifying Event,” loosely defined as signs directing the public to a meeting of a nonprofit group. § 4.402(P). The Code imposes more stringent restrictions on these signs than it does on signs conveying other messages. We hold that these provisions

are content-based regulations of speech that cannot survive strict scrutiny.

I

A

The Sign Code prohibits the display of outdoor signs anywhere within the Town without a permit, but it then exempts 23 categories of signs from that requirement. These exemptions include everything from bazaar signs to flying banners. Three categories of exempt signs are particularly relevant here.

The first is “Ideological Sign[s].” This category includes any “sign communicating a message or ideas for noncommercial purposes that is not a Construction Sign, Directional Sign, Temporary Directional Sign Relating to a Qualifying Event, Political Sign, Garage Sale Sign, or a sign owned or required by a governmental agency.” Sign Code, Glossary of General Terms (Glossary), p. 23 (emphasis deleted). Of the three categories discussed here, the Code treats ideological signs most favorably, allowing them to be up to 20 square feet in area and to be placed in all “zoning districts” without time limits. § 4.402(J).

The second category is “Political Sign[s].” This includes any “temporary sign designed to influence the outcome of an election called by a public body.” Glossary 23.² The Code treats these signs less favorably than ideological signs. The Code allows the placement of political signs up to 16 square feet on residential property and up to 32 square feet on non-residential property, undeveloped municipal property, and “rights-of-way.”

1. The Town’s Sign Code is available online at <http://www.gilbertaz.gov/departments/development-service/planning-development/land-development-code> (as visited June 16, 2015, and available in Clerk of Court’s case file).

2. A “Temporary Sign” is a “sign not permanently attached to the ground, a wall or a building, and not designed or intended for permanent display.” Glossary 25.

§ 4.402(I).³ These signs may be displayed up to 60 days before a primary election and up to 15 days following a general election. *Ibid.*

The third category is “Temporary Directional Signs Relating to a Qualifying Event.” This includes any “Temporary Sign intended to direct pedestrians, motorists, and other passersby to a ‘qualifying event.’” Glossary 25 (emphasis deleted). A “qualifying event” is defined as any “assembly, gathering, activity, or meeting sponsored, arranged, or promoted by a religious, charitable, community service, educational, or other similar non-profit organization.” *Ibid.* The Code treats temporary directional signs even less favorably than political signs.⁴ Temporary directional signs may be no larger than six square feet. § 4.402(P). They may be placed on private property or on a public right-of-way, but no more than four signs may be placed on a single property at any time. *Ibid.* And, they may be displayed no more than 12 hours before the “qualifying event” and no more than 1 hour afterward. *Ibid.*

B

Petitioners Good News Community Church (Church) and its pastor, Clyde Reed, wish to advertise the time and location of their Sunday church services. The Church is a small, cash-strapped entity that owns no building, so it holds its ser-

vices at elementary schools or other locations in or near the Town. In order to inform the public about its services, which are held in a variety of different locations, the Church began placing 15 to 20 temporary signs around the Town, frequently in the public right-of-way abutting the street. The signs typically displayed the Church’s name, along with the time and location of the upcoming service. Church members would post the signs early in the day on Saturday and then remove them around midday on Sunday. The display of these signs requires little money and manpower, and thus has proved to be an economical and effective way for the Church to let the community know where its services are being held each week.

This practice caught the attention of the Town’s Sign Code compliance manager, who twice cited the Church for violating the Code. The first citation noted that the Church exceeded the time limits for displaying its temporary directional signs. The second citation referred to the same problem, along with the Church’s failure to include the date of the event on the signs. Town officials even confiscated one of the Church’s signs, which Reed had to retrieve from the municipal offices.

Reed contacted the Sign Code Compliance Department in an attempt to reach an accommodation. His efforts proved unsuccessful. The Town’s Code compliance manager informed the Church that there

3. The Code defines “Right-of-Way” as a “strip of publicly owned land occupied by or planned for a street, utilities, landscaping, sidewalks, trails, and similar facilities.” *Id.*, at 18.

4. The Sign Code has been amended twice during the pendency of this case. When litigation began in 2007, the Code defined the signs at issue as “Religious Assembly Temporary Direction Signs.” App. 75. The Code entirely prohibited placement of those signs in the public right-of-way, and it forbade post-

ing them in any location for more than two hours before the religious assembly or more than one hour afterward. *Id.*, at 75–76. In 2008, the Town redefined the category as “Temporary Directional Signs Related to a Qualifying Event,” and it expanded the time limit to 12 hours before and 1 hour after the “qualifying event.” *Ibid.* In 2011, the Town amended the Code to authorize placement of temporary directional signs in the public right-of-way. *Id.*, at 89.

would be “no leniency under the Code” and promised to punish any future violations.

Shortly thereafter, petitioners filed a complaint in the United States District Court for the District of Arizona, arguing that the Sign Code abridged their freedom of speech in violation of the First and Fourteenth Amendments. The District Court denied the petitioners’ motion for a preliminary injunction. The Court of Appeals for the Ninth Circuit affirmed, holding that the Sign Code’s provision regulating temporary directional signs did not regulate speech on the basis of content. 587 F.3d 966, 979 (2009). It reasoned that, even though an enforcement officer would have to read the sign to determine what provisions of the Sign Code applied to it, the “‘kind of cursory examination’” that would be necessary for an officer to classify it as a temporary directional sign was “not akin to an officer synthesizing the expressive content of the sign.” *Id.*, at 978. It then remanded for the District Court to determine in the first instance whether the Sign Code’s distinctions among temporary directional signs, political signs, and ideological signs nevertheless constituted a content-based regulation of speech.

On remand, the District Court granted summary judgment in favor of the Town. The Court of Appeals again affirmed, holding that the Code’s sign categories were content neutral. The court concluded that “the distinctions between Temporary Directional Signs, Ideological Signs, and Political Signs . . . are based on objective factors relevant to Gilbert’s creation of the specific exemption from the permit requirement and do not otherwise consider the substance of the sign.” 707 F.3d 1057, 1069 (C.A.9 2013). Relying on this Court’s decision in *Hill v. Colorado*, 530 U.S. 703, 120 S.Ct. 2480, 147 L.Ed.2d 597 (2000), the

Court of Appeals concluded that the Sign Code is content neutral. 707 F.3d, at 1071–1072. As the court explained, “Gilbert did not adopt its regulation of speech because it disagreed with the message conveyed” and its “interests in regulat[ing] temporary signs are unrelated to the content of the sign.” *Ibid.* Accordingly, the court believed that the Code was “content-neutral as that term [has been] defined by the Supreme Court.” *Id.*, at 1071. In light of that determination, it applied a lower level of scrutiny to the Sign Code and concluded that the law did not violate the First Amendment. *Id.*, at 1073–1076.

We granted certiorari, 573 U.S. —, 134 S.Ct. 2900, 189 L.Ed.2d 854 (2014), and now reverse.

II

A

[1,2] The First Amendment, applicable to the States through the Fourteenth Amendment, prohibits the enactment of laws “abridging the freedom of speech.” U.S. Const., Amdt. 1. Under that Clause, a government, including a municipal government vested with state authority, “has no power to restrict expression because of its message, its ideas, its subject matter, or its content.” *Police Dept. of Chicago v. Mosley*, 408 U.S. 92, 95, 92 S.Ct. 2286, 33 L.Ed.2d 212 (1972). Content-based laws—those that target speech based on its communicative content—are presumptively unconstitutional and may be justified only if the government proves that they are narrowly tailored to serve compelling state interests. *R.A.V. v. St. Paul*, 505 U.S. 377, 395, 112 S.Ct. 2538, 120 L.Ed.2d 305 (1992); *Simon & Schuster, Inc. v. Members of N.Y. State Crime Victims Bd.*, 502 U.S. 105, 115, 118, 112 S.Ct. 501, 116 L.Ed.2d 476 (1991).

[3, 4] Government regulation of speech is content based if a law applies to particular speech because of the topic discussed or the idea or message expressed. *E.g.*, *Sorrell v. IMS Health, Inc.*, 564 U.S. —, — — —, 131 S.Ct. 2653, 2663–2664, 180 L.Ed.2d 544 (2011); *Carey v. Brown*, 447 U.S. 455, 462, 100 S.Ct. 2286, 65 L.Ed.2d 263 (1980); *Mosley, supra*, at 95, 92 S.Ct. 2286. This commonsense meaning of the phrase “content based” requires a court to consider whether a regulation of speech “on its face” draws distinctions based on the message a speaker conveys. *Sorrell, supra*, at —, 131 S.Ct., at 2664. Some facial distinctions based on a message are obvious, defining regulated speech by particular subject matter, and others are more subtle, defining regulated speech by its function or purpose. Both are distinctions drawn based on the message a speaker conveys, and, therefore, are subject to strict scrutiny.

[5] Our precedents have also recognized a separate and additional category of laws that, though facially content neutral, will be considered content-based regulations of speech: laws that cannot be “‘justified without reference to the content of the regulated speech,’” or that were adopted by the government “because of disagreement with the message [the speech] conveys,” *Ward v. Rock Against Racism*, 491 U.S. 781, 791, 109 S.Ct. 2746, 105 L.Ed.2d 661 (1989). Those laws, like those that are content based on their face, must also satisfy strict scrutiny.

B

[6] The Town’s Sign Code is content based on its face. It defines “Temporary Directional Signs” on the basis of whether a sign conveys the message of directing the public to church or some other “qualifying event.” Glossary 25. It defines “Political Signs” on the basis of whether a

sign’s message is “designed to influence the outcome of an election.” *Id.*, at 24. And it defines “Ideological Signs” on the basis of whether a sign “communicat[es] a message or ideas” that do not fit within the Code’s other categories. *Id.*, at 23. It then subjects each of these categories to different restrictions.

The restrictions in the Sign Code that apply to any given sign thus depend entirely on the communicative content of the sign. If a sign informs its reader of the time and place a book club will discuss John Locke’s *Two Treatises of Government*, that sign will be treated differently from a sign expressing the view that one should vote for one of Locke’s followers in an upcoming election, and both signs will be treated differently from a sign expressing an ideological view rooted in Locke’s theory of government. More to the point, the Church’s signs inviting people to attend its worship services are treated differently from signs conveying other types of ideas. On its face, the Sign Code is a content-based regulation of speech. We thus have no need to consider the government’s justifications or purposes for enacting the Code to determine whether it is subject to strict scrutiny.

C

In reaching the contrary conclusion, the Court of Appeals offered several theories to explain why the Town’s Sign Code should be deemed content neutral. None is persuasive.

1

The Court of Appeals first determined that the Sign Code was content neutral because the Town “did not adopt its regulation of speech [based on] disagree[ment] with the message conveyed,” and its justifications for regulating temporary directional signs were “unrelated to the content of the sign.” 707 F.3d, at 1071–1072.

In its brief to this Court, the United States similarly contends that a sign regulation is content neutral—even if it expressly draws distinctions based on the sign’s communicative content—if those distinctions can be “‘justified without reference to the content of the regulated speech.’” Brief for United States as *Amicus Curiae* 20, 24 (quoting *Ward, supra*, at 791, 109 S.Ct. 2746; emphasis deleted).

[7–11] But this analysis skips the crucial first step in the content-neutrality analysis: determining whether the law is content neutral on its face. A law that is content based on its face is subject to strict scrutiny regardless of the government’s benign motive, content-neutral justification, or lack of “animus toward the ideas contained” in the regulated speech. *Cincinnati v. Discovery Network, Inc.*, 507 U.S. 410, 429, 113 S.Ct. 1505, 123 L.Ed.2d 99 (1993). We have thus made clear that “[i]llicit legislative intent is not the *sine qua non* of a violation of the First Amendment,” and a party opposing the government “need adduce ‘no evidence of an improper censorial motive.’” *Simon & Schuster, supra*, at 117, 112 S.Ct. 501. Although “a content-based purpose may be sufficient in certain circumstances to show that a regulation is content based, it is not necessary.” *Turner Broadcasting System, Inc. v. FCC*, 512 U.S. 622, 642, 114 S.Ct. 2445, 129 L.Ed.2d 497 (1994). In other words, an innocuous justification cannot transform a facially content-based law into one that is content neutral.

[12] That is why we have repeatedly considered whether a law is content neutral on its face *before* turning to the law’s justification or purpose. See, e.g., *Sorrell, supra*, at ———, 131 S.Ct., at 2663–2664 (statute was content based “on its face,” and there was also evidence of an impermissible legislative motive); *United States v. Eichman*, 496 U.S. 310, 315, 110

S.Ct. 2404, 110 L.Ed.2d 287 (1990) (“Although the [statute] contains no explicit content-based limitation on the scope of prohibited conduct, it is nevertheless clear that the Government’s asserted *interest* is related to the suppression of free expression” (internal quotation marks omitted)); *Members of City Council of Los Angeles v. Taxpayers for Vincent*, 466 U.S. 789, 804, 104 S.Ct. 2118, 80 L.Ed.2d 772 (1984) (“The text of the ordinance is neutral,” and “there is not even a hint of bias or censorship in the City’s enactment or enforcement of this ordinance”); *Clark v. Community for Creative Non-Violence*, 468 U.S. 288, 293, 104 S.Ct. 3065, 82 L.Ed.2d 221 (1984) (requiring that a facially content-neutral ban on camping must be “justified without reference to the content of the regulated speech”); *United States v. O’Brien*, 391 U.S. 367, 375, 377, 88 S.Ct. 1673, 20 L.Ed.2d 672 (1968) (noting that the statute “on its face deals with conduct having no connection with speech,” but examining whether the “the governmental interest is unrelated to the suppression of free expression”). Because strict scrutiny applies either when a law is content based on its face or when the purpose and justification for the law are content based, a court must evaluate each question before it concludes that the law is content neutral and thus subject to a lower level of scrutiny.

The Court of Appeals and the United States misunderstand our decision in *Ward* as suggesting that a government’s purpose is relevant even when a law is content based on its face. That is incorrect. *Ward* had nothing to say about facially content-based restrictions because it involved a facially content-neutral ban on the use, in a city-owned music venue, of sound amplification systems not provided by the city. 491 U.S., at 787, and n. 2, 109 S.Ct. 2746. In that context, we looked to

governmental motive, including whether the government had regulated speech “because of disagreement” with its message, and whether the regulation was “justified without reference to the content of the speech.” *Id.*, at 791, 109 S.Ct. 2746. But *Ward*’s framework “applies only if a statute is content neutral.” *Hill*, 530 U.S., at 766, 120 S.Ct. 2480 (KENNEDY, J., dissenting). Its rules thus operate “to protect speech,” not “to restrict it.” *Id.*, at 765, 120 S.Ct. 2480.

The First Amendment requires no less. Innocent motives do not eliminate the danger of censorship presented by a facially content-based statute, as future government officials may one day wield such statutes to suppress disfavored speech. That is why the First Amendment expressly targets the operation of the laws—*i.e.*, the “abridg[ement] of speech”—rather than merely the motives of those who enacted them. U.S. Const., Amdt. 1. “The vice of content-based legislation . . . is not that it is always used for invidious, thought-control purposes, but that it lends itself to use for those purposes.” *Hill*, *supra*, at 743, 120 S.Ct. 2480 (SCALIA, J., dissenting).

For instance, in *NAACP v. Button*, 371 U.S. 415, 83 S.Ct. 328, 9 L.Ed.2d 405 (1963), the Court encountered a State’s attempt to use a statute prohibiting “improper solicitation” by attorneys to outlaw litigation-related speech of the National Association for the Advancement of Colored People. *Id.*, at 438, 83 S.Ct. 328. Although *Button* predated our more recent formulations of strict scrutiny, the Court rightly rejected the State’s claim that its interest in the “regulation of professional conduct” rendered the statute consistent with the First Amendment, observing that “it is no answer . . . to say . . . that the purpose of these regulations was merely to insure high professional

standards and not to curtail free expression.” *Id.*, at 438–439, 83 S.Ct. 328. Likewise, one could easily imagine a Sign Code compliance manager who disliked the Church’s substantive teachings deploying the Sign Code to make it more difficult for the Church to inform the public of the location of its services. Accordingly, we have repeatedly “rejected the argument that ‘discriminatory . . . treatment is suspect under the First Amendment only when the legislature intends to suppress certain ideas.’” *Discovery Network*, 507 U.S., at 429, 113 S.Ct. 1505. We do so again today.

2

The Court of Appeals next reasoned that the Sign Code was content neutral because it “does not mention any idea or viewpoint, let alone single one out for differential treatment.” 587 F.3d, at 977. It reasoned that, for the purpose of the Code provisions, “[i]t makes no difference which candidate is supported, who sponsors the event, or what ideological perspective is asserted.” 707 F.3d, at 1069.

The Town seizes on this reasoning, insisting that “content based” is a term of art that “should be applied flexibly” with the goal of protecting “viewpoints and ideas from government censorship or favoritism.” Brief for Respondents 22. In the Town’s view, a sign regulation that “does not censor or favor particular viewpoints or ideas” cannot be content based. *Ibid.* The Sign Code allegedly passes this test because its treatment of temporary directional signs does not raise any concerns that the government is “endorsing or suppressing ‘ideas or viewpoints,’” *id.*, at 27, and the provisions for political signs and ideological signs “are neutral as to particular ideas or viewpoints” within those categories. *Id.*, at 37.

[13] This analysis conflates two distinct but related limitations that the First

Amendment places on government regulation of speech. Government discrimination among viewpoints—or the regulation of speech based on “the specific motivating ideology or the opinion or perspective of the speaker”—is a “more blatant” and “egregious form of content discrimination.” *Rosenberger v. Rector and Visitors of Univ. of Va.*, 515 U.S. 819, 829, 115 S.Ct. 2510, 132 L.Ed.2d 700 (1995). But it is well established that “[t]he First Amendment’s hostility to content-based regulation extends not only to restrictions on particular viewpoints, but also to prohibition of public discussion of an entire topic.” *Consolidated Edison Co. of N.Y. v. Public Serv. Comm’n of N. Y.*, 447 U.S. 530, 537, 100 S.Ct. 2326, 65 L.Ed.2d 319 (1980).

[14] Thus, a speech regulation targeted at specific subject matter is content based even if it does not discriminate among viewpoints within that subject matter. *Ibid.* For example, a law banning the use of sound trucks for political speech—and only political speech—would be a content-based regulation, even if it imposed no limits on the political viewpoints that could be expressed. See *Discovery Network, supra*, at 428, 113 S.Ct. 1505. The Town’s Sign Code likewise singles out specific subject matter for differential treatment, even if it does not target viewpoints within that subject matter. Ideological messages are given more favorable treatment than messages concerning a political candidate, which are themselves given more favorable treatment than messages announcing an assembly of like-minded individuals. That is a paradigmatic example of content-based discrimination.

3

Finally, the Court of Appeals characterized the Sign Code’s distinctions as turning on “the content-neutral elements of who

is speaking through the sign and whether and when an event is occurring.’” 707 F.3d, at 1069. That analysis is mistaken on both factual and legal grounds.

To start, the Sign Code’s distinctions are not speaker based. The restrictions for political, ideological, and temporary event signs apply equally no matter who sponsors them. If a local business, for example, sought to put up signs advertising the Church’s meetings, those signs would be subject to the same limitations as such signs placed by the Church. And if Reed had decided to display signs in support of a particular candidate, he could have made those signs far larger—and kept them up for far longer—than signs inviting people to attend his church services. If the Code’s distinctions were truly speaker based, both types of signs would receive the same treatment.

[15, 16] In any case, the fact that a distinction is speaker based does not, as the Court of Appeals seemed to believe, automatically render the distinction content neutral. Because “[s]peech restrictions based on the identity of the speaker are all too often simply a means to control content,” *Citizens United v. Federal Election Comm’n*, 558 U.S. 310, 340, 130 S.Ct. 876, 175 L.Ed.2d 753 (2010), we have insisted that “laws favoring some speakers over others demand strict scrutiny when the legislature’s speaker preference reflects a content preference,” *Turner*, 512 U.S., at 658, 114 S.Ct. 2445. Thus, a law limiting the content of newspapers, but only newspapers, could not evade strict scrutiny simply because it could be characterized as speaker based. Likewise, a content-based law that restricted the political speech of all corporations would not become content neutral just because it singled out corporations as a class of speakers. See *Citizens United, supra*, at 340–341, 130 S.Ct. 876. Characterizing a dis-

inction as speaker based is only the beginning—not the end—of the inquiry.

Nor do the Sign Code’s distinctions hinge on “whether and when an event is occurring.” The Code does not permit citizens to post signs on any topic whatsoever within a set period leading up to an election, for example. Instead, come election time, it requires Town officials to determine whether a sign is “designed to influence the outcome of an election” (and thus “political”) or merely “communicating a message or ideas for noncommercial purposes” (and thus “ideological”). Glossary 24. That obvious content-based inquiry does not evade strict scrutiny review simply because an event (*i.e.*, an election) is involved.

[17] And, just as with speaker-based laws, the fact that a distinction is event based does not render it content neutral. The Court of Appeals cited no precedent from this Court supporting its novel theory of an exception from the content-neutrality requirement for event-based laws. As we have explained, a speech regulation is content based if the law applies to particular speech because of the topic discussed or the idea or message expressed. *Supra*, at 2226–2227. A regulation that targets a sign because it conveys an idea about a specific event is no less content based than a regulation that targets a sign because it conveys some other idea. Here, the Code singles out signs bearing a particular message: the time and location of a specific event. This type of ordinance may seem like a perfectly rational way to regulate signs, but a clear and firm rule governing content neutrality is an essential means of protecting the freedom of speech, even if laws that might seem “entirely reasonable” will sometimes be “struck down because of their content-based nature.” *City of Ladue v. Gilleo*, 512 U.S.

43, 60, 114 S.Ct. 2038, 129 L.Ed.2d 36 (1994) (O’Connor, J., concurring).

III

[18, 19] Because the Town’s Sign Code imposes content-based restrictions on speech, those provisions can stand only if they survive strict scrutiny, “‘which requires the Government to prove that the restriction furthers a compelling interest and is narrowly tailored to achieve that interest.’” *Arizona Free Enterprise Club’s Freedom Club PAC v. Bennett*, 564 U.S. —, —, 131 S.Ct. 2806, 2817, 180 L.Ed.2d 664 (2011) (quoting *Citizens United*, 558 U.S., at 340, 130 S.Ct. 876). Thus, it is the Town’s burden to demonstrate that the Code’s differentiation between temporary directional signs and other types of signs, such as political signs and ideological signs, furthers a compelling governmental interest and is narrowly tailored to that end. See *ibid.*

The Town cannot do so. It has offered only two governmental interests in support of the distinctions the Sign Code draws: preserving the Town’s aesthetic appeal and traffic safety. Assuming for the sake of argument that those are compelling governmental interests, the Code’s distinctions fail as hopelessly underinclusive.

Starting with the preservation of aesthetics, temporary directional signs are “no greater an eyesore,” *Discovery Network*, 507 U.S., at 425, 113 S.Ct. 1505, than ideological or political ones. Yet the Code allows unlimited proliferation of larger ideological signs while strictly limiting the number, size, and duration of smaller directional ones. The Town cannot claim that placing strict limits on temporary directional signs is necessary to beautify the Town while at the same time allowing unlimited numbers of other types of signs that create the same problem.

The Town similarly has not shown that limiting temporary directional signs is necessary to eliminate threats to traffic safety, but that limiting other types of signs is not. The Town has offered no reason to believe that directional signs pose a greater threat to safety than do ideological or political signs. If anything, a sharply worded ideological sign seems more likely to distract a driver than a sign directing the public to a nearby church meeting.

[20] In light of this underinclusiveness, the Town has not met its burden to prove that its Sign Code is narrowly tailored to further a compelling government interest. Because a “law cannot be regarded as protecting an interest of the highest order, and thus as justifying a restriction on truthful speech, when it leaves appreciable damage to that supposedly vital interest unprohibited,” *Republican Party of Minn. v. White*, 536 U.S. 765, 780, 122 S.Ct. 2528, 153 L.Ed.2d 694 (2002), the Sign Code fails strict scrutiny.

IV

[21] Our decision today will not prevent governments from enacting effective sign laws. The Town asserts that an “absolutist” content-neutrality rule would render “virtually all distinctions in sign laws . . . subject to strict scrutiny,” Brief for Respondents 34–35, but that is not the case. Not “all distinctions” are subject to strict scrutiny, only *content-based* ones are. Laws that are *content neutral* are instead subject to lesser scrutiny. See *Clark*, 468 U.S., at 295, 104 S.Ct. 3065.

The Town has ample content-neutral options available to resolve problems with safety and aesthetics. For example, its current Code regulates many aspects of signs that have nothing to do with a sign’s message: size, building materials, lighting, moving parts, and portability. See, e.g., § 4.402(R). And on public property, the

Town may go a long way toward entirely forbidding the posting of signs, so long as it does so in an evenhanded, content-neutral manner. See *Taxpayers for Vincent*, 466 U.S., at 817, 104 S.Ct. 2118 (upholding content-neutral ban against posting signs on public property). Indeed, some lower courts have long held that similar content-based sign laws receive strict scrutiny, but there is no evidence that towns in those jurisdictions have suffered catastrophic effects. See, e.g., *Solantic, LLC v. Neptune Beach*, 410 F.3d 1250, 1264–1269 (C.A.11 2005) (sign categories similar to the town of Gilbert’s were content based and subject to strict scrutiny); *Matthews v. Needham*, 764 F.2d 58, 59–60 (C.A.1 1985) (law banning political signs but not commercial signs was content based and subject to strict scrutiny).

We acknowledge that a city might reasonably view the general regulation of signs as necessary because signs “take up space and may obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately call for regulation.” *City of Ladue*, 512 U.S., at 48, 114 S.Ct. 2038. At the same time, the presence of certain signs may be essential, both for vehicles and pedestrians, to guide traffic or to identify hazards and ensure safety. A sign ordinance narrowly tailored to the challenges of protecting the safety of pedestrians, drivers, and passengers—such as warning signs marking hazards on private property, signs directing traffic, or street numbers associated with private houses—well might survive strict scrutiny. The signs at issue in this case, including political and ideological signs and signs for events, are far removed from those purposes. As discussed above, they are facially content based and are neither justified by traditional safety concerns nor narrowly tailored.

* * *

REED v. TOWN OF GILBERT, ARIZ.

2233

Cite as 135 S.Ct. 2218 (2015)

We reverse the judgment of the Court of Appeals and remand the case for proceedings consistent with this opinion.

It is so ordered.

Justice ALITO, with whom Justice KENNEDY and Justice SOTOMAYOR join, concurring.

I join the opinion of the Court but add a few words of further explanation.

As the Court holds, what we have termed “content-based” laws must satisfy strict scrutiny. Content-based laws merit this protection because they present, albeit sometimes in a subtler form, the same dangers as laws that regulate speech based on viewpoint. Limiting speech based on its “topic” or “subject” favors those who do not want to disturb the status quo. Such regulations may interfere with democratic self-government and the search for truth. See *Consolidated Edison Co. of N.Y. v. Public Serv. Comm’n of N. Y.*, 447 U.S. 530, 537, 100 S.Ct. 2326, 65 L.Ed.2d 319 (1980).

As the Court shows, the regulations at issue in this case are replete with content-based distinctions, and as a result they must satisfy strict scrutiny. This does not mean, however, that municipalities are powerless to enact and enforce reasonable sign regulations. I will not attempt to provide anything like a comprehensive list, but here are some rules that would not be content based:

Rules regulating the size of signs. These rules may distinguish among signs based on any content-neutral criteria, including any relevant criteria listed below.

* Of course, content-neutral restrictions on speech are not necessarily consistent with the First Amendment. Time, place, and manner restrictions “must be narrowly tailored to serve the government’s legitimate, content-

Rules regulating the locations in which signs may be placed. These rules may distinguish between free-standing signs and those attached to buildings.

Rules distinguishing between lighted and unlighted signs.

Rules distinguishing between signs with fixed messages and electronic signs with messages that change.

Rules that distinguish between the placement of signs on private and public property.

Rules distinguishing between the placement of signs on commercial and residential property.

Rules distinguishing between on-premises and off-premises signs.

Rules restricting the total number of signs allowed per mile of roadway.

Rules imposing time restrictions on signs advertising a one-time event. Rules of this nature do not discriminate based on topic or subject and are akin to rules restricting the times within which oral speech or music is allowed.*

In addition to regulating signs put up by private actors, government entities may also erect their own signs consistent with the principles that allow governmental speech. See *Pleasant Grove City v. Summum*, 555 U.S. 460, 467–469, 129 S.Ct. 1125, 172 L.Ed.2d 853 (2009). They may put up all manner of signs to promote safety, as well as directional signs and signs pointing out historic sites and scenic spots.

Properly understood, today’s decision will not prevent cities from regulating signs in a way that fully protects public

neutral interests.” *Ward v. Rock Against Racism*, 491 U.S. 781, 798, 109 S.Ct. 2746, 105 L.Ed.2d 661 (1989). But they need not meet the high standard imposed on viewpoint- and content-based restrictions.

safety and serves legitimate esthetic objectives.

Justice BREYER, concurring in the judgment.

I join Justice KAGAN's separate opinion. Like Justice KAGAN I believe that categories alone cannot satisfactorily resolve the legal problem before us. The First Amendment requires greater judicial sensitivity both to the Amendment's expressive objectives and to the public's legitimate need for regulation than a simple recitation of categories, such as "content discrimination" and "strict scrutiny," would permit. In my view, the category "content discrimination" is better considered in many contexts, including here, as a rule of thumb, rather than as an automatic "strict scrutiny" trigger, leading to almost certain legal condemnation.

To use content discrimination to trigger strict scrutiny sometimes makes perfect sense. There are cases in which the Court has found content discrimination an unconstitutional method for suppressing a viewpoint. *E.g.*, *Rosenberger v. Rector and Visitors of Univ. of Va.*, 515 U.S. 819, 828–829, 115 S.Ct. 2510, 132 L.Ed.2d 700 (1995); see also *Boos v. Barry*, 485 U.S. 312, 318–319, 108 S.Ct. 1157, 99 L.Ed.2d 333 (1988) (plurality opinion) (applying strict scrutiny where the line between subject matter and viewpoint was not obvious). And there are cases where the Court has found content discrimination to reveal that rules governing a traditional public forum are, in fact, not a neutral way of fairly managing the forum in the interest of all speakers. *Police Dept. of Chicago v. Mosley*, 408 U.S. 92, 96, 92 S.Ct. 2286, 33 L.Ed.2d 212 (1972) ("Once a forum is opened up to assembly or speaking by some groups, government may not prohibit others from assembling or speaking on the basis of what they intend to say").

In these types of cases, strict scrutiny is often appropriate, and content discrimination has thus served a useful purpose.

But content discrimination, while helping courts to identify unconstitutional suppression of expression, cannot and should not *always* trigger strict scrutiny. To say that it is not an automatic "strict scrutiny" trigger is not to argue against that concept's use. I readily concede, for example, that content discrimination, as a conceptual tool, can sometimes reveal weaknesses in the government's rationale for a rule that limits speech. If, for example, a city looks to litter prevention as the rationale for a prohibition against placing newsracks dispensing free advertisements on public property, why does it exempt other newsracks causing similar litter? Cf. *Cincinnati v. Discovery Network, Inc.*, 507 U.S. 410, 113 S.Ct. 1505, 123 L.Ed.2d 99 (1993). I also concede that, whenever government disfavors one kind of speech, it places that speech at a disadvantage, potentially interfering with the free marketplace of ideas and with an individual's ability to express thoughts and ideas that can help that individual determine the kind of society in which he wishes to live, help shape that society, and help define his place within it.

Nonetheless, in these latter instances to use the presence of content discrimination automatically to trigger strict scrutiny and thereby call into play a strong presumption against constitutionality goes too far. That is because virtually all government activities involve speech, many of which involve the regulation of speech. Regulatory programs almost always require content discrimination. And to hold that such content discrimination triggers strict scrutiny is to write a recipe for judicial management of ordinary government regulatory activity.

Consider a few examples of speech regulated by government that inevitably in-

volve content discrimination, but where a strong presumption against constitutionality has no place. Consider governmental regulation of securities, *e.g.*, 15 U.S.C. § 78l (requirements for content that must be included in a registration statement); of energy conservation labeling-practices, *e.g.*, 42 U.S.C. § 6294 (requirements for content that must be included on labels of certain consumer electronics); of prescription drugs, *e.g.*, 21 U.S.C. § 353(b)(4)(A) (requiring a prescription drug label to bear the symbol “Rx only”); of doctor-patient confidentiality, *e.g.*, 38 U.S.C. § 7332 (requiring confidentiality of certain medical records, but allowing a physician to disclose that the patient has HIV to the patient’s spouse or sexual partner); of income tax statements, *e.g.*, 26 U.S.C. § 6039F (requiring taxpayers to furnish information about foreign gifts received if the aggregate amount exceeds \$10,000); of commercial airplane briefings, *e.g.*, 14 CFR § 136.7 (2015) (requiring pilots to ensure that each passenger has been briefed on flight procedures, such as seat-belt fastening); of signs at petting zoos, *e.g.*, N.Y. Gen. Bus. Law Ann. § 399–ff(3) (West Cum. Supp. 2015) (requiring petting zoos to post a sign at every exit “‘strongly recommend[ing] that persons wash their hands upon exiting the petting zoo area’”); and so on.

Nor can the majority avoid the application of strict scrutiny to all sorts of justifiable governmental regulations by relying on this Court’s many subcategories and exceptions to the rule. The Court has said, for example, that we should apply less strict standards to “commercial speech.” *Central Hudson Gas & Elec. Corp. v. Public Service Comm’n of N. Y.*, 447 U.S. 557, 562–563, 100 S.Ct. 2343, 65 L.Ed.2d 341 (1980). But I have great concern that many justifiable instances of “content-based” regulation are noncommercial. And, worse than that, the Court

has applied the heightened “strict scrutiny” standard even in cases where the less stringent “commercial speech” standard was appropriate. See *Sorrell v. IMS Health Inc.*, 564 U.S. —, —, 131 S.Ct. 2653, 2664, 180 L.Ed.2d 544 (2011) (BREYER, J., dissenting). The Court has also said that “government speech” escapes First Amendment strictures. See *Rust v. Sullivan*, 500 U.S. 173, 193–194, 111 S.Ct. 1759, 114 L.Ed.2d 233 (1991). But regulated speech is typically private speech, not government speech. Further, the Court has said that, “[w]hen the basis for the content discrimination consists entirely of the very reason the entire class of speech at issue is proscribable, no significant danger of idea or viewpoint discrimination exists.” *R.A.V. v. St. Paul*, 505 U.S. 377, 388, 112 S.Ct. 2538, 120 L.Ed.2d 305 (1992). But this exception accounts for only a few of the instances in which content discrimination is readily justifiable.

I recognize that the Court could escape the problem by watering down the force of the presumption against constitutionality that “strict scrutiny” normally carries with it. But, in my view, doing so will weaken the First Amendment’s protection in instances where “strict scrutiny” should apply in full force.

The better approach is to generally treat content discrimination as a strong reason weighing against the constitutionality of a rule where a traditional public forum, or where viewpoint discrimination, is threatened, but elsewhere treat it as a rule of thumb, finding it a helpful, but not determinative legal tool, in an appropriate case, to determine the strength of a justification. I would use content discrimination as a supplement to a more basic analysis, which, tracking most of our First Amendment cases, asks whether the regulation at issue works harm to First Amendment interests that is disproportionate in light of

the relevant regulatory objectives. Answering this question requires examining the seriousness of the harm to speech, the importance of the countervailing objectives, the extent to which the law will achieve those objectives, and whether there are other, less restrictive ways of doing so. See, e.g., *United States v. Alvarez*, 567 U.S. —, —, —, 132 S.Ct. 2537, 2551–2553, 183 L.Ed.2d 574 (2012) (BREYER, J., concurring in judgment); *Nixon v. Shrink Missouri Government PAC*, 528 U.S. 377, 400–403, 120 S.Ct. 897, 145 L.Ed.2d 886 (2000) (BREYER, J., concurring). Admittedly, this approach does not have the simplicity of a mechanical use of categories. But it does permit the government to regulate speech in numerous instances where the voters have authorized the government to regulate and where courts should hesitate to substitute judicial judgment for that of administrators.

Here, regulation of signage along the roadside, for purposes of safety and beautification is at issue. There is no traditional public forum nor do I find any general effort to censor a particular viewpoint. Consequently, the specific regulation at issue does not warrant “strict scrutiny.” Nonetheless, for the reasons that Justice KAGAN sets forth, I believe that the Town of Gilbert’s regulatory rules violate the First Amendment. I consequently concur in the Court’s judgment only.

Justice KAGAN, with whom Justice GINSBURG and Justice BREYER join, concurring in the judgment.

Countless cities and towns across America have adopted ordinances regulating the posting of signs, while exempting certain categories of signs based on their subject matter. For example, some municipalities generally prohibit illuminated signs in residential neighborhoods, but lift that ban for signs that identify the address of a home

or the name of its owner or occupant. See, e.g., *City of Truth or Consequences*, N. M., Code of Ordinances, ch. 16, Art. XIII, §§ 11–13–2.3, 11–13–2.9(H)(4) (2014). In other municipalities, safety signs such as “Blind Pedestrian Crossing” and “Hidden Driveway” can be posted without a permit, even as other permanent signs require one. See, e.g., Code of Athens–Clarke County, Ga., Pt. III, § 7–4–7(1) (1993). Elsewhere, historic site markers—for example, “George Washington Slept Here”—are also exempt from general regulations. See, e.g., *Dover, Del., Code of Ordinances*, Pt. II, App. B, Art. 5, § 4.5(F) (2012). And similarly, the federal Highway Beautification Act limits signs along interstate highways unless, for instance, they direct travelers to “scenic and historical attractions” or advertise free coffee. See 23 U.S.C. §§ 131(b), (c)(1), (c)(5).

Given the Court’s analysis, many sign ordinances of that kind are now in jeopardy. See *ante*, at 2231 (acknowledging that “entirely reasonable” sign laws “will sometimes be struck down” under its approach (internal quotation marks omitted)). Says the majority: When laws “single[] out specific subject matter,” they are “facially content based”; and when they are facially content based, they are automatically subject to strict scrutiny. *Ante*, at 2230, 2232–2233. And although the majority holds out hope that some sign laws with subject-matter exemptions “might survive” that stringent review, *ante*, at 2232–2233, the likelihood is that most will be struck down. After all, it is the “rare case[] in which a speech restriction withstands strict scrutiny.” *Williams–Yulee v. Florida Bar*, 575 U.S. —, —, 135 S.Ct. 1656, 1666, 191 L.Ed.2d 570 (2015). To clear that high bar, the government must show that a content-based distinction “is necessary to serve a compelling state interest and is narrowly drawn to achieve that end.” *Arkansas Writers’ Project, Inc.*

v. Ragland, 481 U.S. 221, 231, 107 S.Ct. 1722, 95 L.Ed.2d 209 (1987). So on the majority's view, courts would have to determine that a town has a compelling interest in informing passersby where George Washington slept. And likewise, courts would have to find that a town has no other way to prevent hidden-driveway mishaps than by specially treating hidden-driveway signs. (Well-placed speed bumps? Lower speed limits? Or how about just a ban on hidden driveways?) The consequence—unless courts water down strict scrutiny to something unrecognizable—is that our communities will find themselves in an unenviable bind: They will have to either repeal the exemptions that allow for helpful signs on streets and sidewalks, or else lift their sign restrictions altogether and resign themselves to the resulting clutter.*

Although the majority insists that applying strict scrutiny to all such ordinances is “essential” to protecting First Amendment freedoms, *ante*, at 2231, I find it challenging to understand why that is so. This Court's decisions articulate two important and related reasons for subjecting content-based speech regulations to the most exacting standard of review. The first is “to preserve an uninhibited marketplace of ideas in which truth will ultimately prevail.” *McCullen v. Coakley*, 573 U.S. —, — — —, 134 S.Ct. 2518, 2529, 189 L.Ed.2d 502 (2014) (internal quotation marks omitted). The second is to ensure that the government has not regulated speech “based on hostility—or favoritism—towards the underlying message ex-

pressed.” *R.A.V. v. St. Paul*, 505 U.S. 377, 386, 112 S.Ct. 2538, 120 L.Ed.2d 305 (1992). Yet the subject-matter exemptions included in many sign ordinances do not implicate those concerns. Allowing residents, say, to install a light bulb over “name and address” signs but no others does not distort the marketplace of ideas. Nor does that different treatment give rise to an inference of impermissible government motive.

We apply strict scrutiny to facially content-based regulations of speech, in keeping with the rationales just described, when there is any “realistic possibility that official suppression of ideas is afoot.” *Davenport v. Washington Ed. Assn.*, 551 U.S. 177, 189, 127 S.Ct. 2372, 168 L.Ed.2d 71 (2007) (quoting *R.A.V.*, 505 U.S., at 390, 112 S.Ct. 2538). That is always the case when the regulation facially differentiates on the basis of viewpoint. See *Rosenberger v. Rector and Visitors of Univ. of Va.*, 515 U.S. 819, 829, 115 S.Ct. 2510, 132 L.Ed.2d 700 (1995). It is also the case (except in non-public or limited public forums) when a law restricts “discussion of an entire topic” in public debate. *Consolidated Edison Co. of N.Y. v. Public Serv. Comm'n of N. Y.*, 447 U.S. 530, 537, 539–540, 100 S.Ct. 2326, 65 L.Ed.2d 319 (1980) (invalidating a limitation on speech about nuclear power). We have stated that “[i]f the marketplace of ideas is to remain free and open, governments must not be allowed to choose ‘which issues are worth discussing or debating.’” *Id.*, at 537–538, 100 S.Ct. 2326 (quoting *Police Dept. of*

* Even in trying (commendably) to limit today's decision, Justice ALITO's concurrence highlights its far-reaching effects. According to Justice ALITO, the majority does not subject to strict scrutiny regulations of “signs advertising a one-time event.” *Ante*, at 2233 (ALITO, J., concurring). But of course it does. On the majority's view, a law with an exception for such signs “singles out specific sub-

ject matter for differential treatment” and “defin[es] regulated speech by particular subject matter.” *Ante*, at 2227, 2230 (majority opinion). Indeed, the precise reason the majority applies strict scrutiny here is that “the Code singles out signs bearing a particular message: the time and location of a specific event.” *Ante*, at 2231.

Chicago v. Mosley, 408 U.S. 92, 96, 92 S.Ct. 2286, 33 L.Ed.2d 212 (1972)). And we have recognized that such subject-matter restrictions, even though viewpoint-neutral on their face, may “suggest[] an attempt to give one side of a debatable public question an advantage in expressing its views to the people.” *First Nat. Bank of Boston v. Bellotti*, 435 U.S. 765, 785, 98 S.Ct. 1407, 55 L.Ed.2d 707 (1978); accord, *ante*, at 2233 (ALITO, J., concurring) (limiting all speech on one topic “favors those who do not want to disturb the status quo”). Subject-matter regulation, in other words, may have the intent or effect of favoring some ideas over others. When that is realistically possible—when the restriction “raises the specter that the Government may effectively drive certain ideas or viewpoints from the marketplace”—we insist that the law pass the most demanding constitutional test. *R.A.V.*, 505 U.S., at 387, 112 S.Ct. 2538 (quoting *Simon & Schuster, Inc. v. Members of N.Y. State Crime Victims Bd.*, 502 U.S. 105, 116, 112 S.Ct. 501, 116 L.Ed.2d 476 (1991)).

But when that is not realistically possible, we may do well to relax our guard so that “entirely reasonable” laws imperiled by strict scrutiny can survive. *Ante*, at 2231. This point is by no means new. Our concern with content-based regulation arises from the fear that the government will skew the public’s debate of ideas—so when “that risk is inconsequential, . . . strict scrutiny is unwarranted.” *Davenport*, 551 U.S., at 188, 127 S.Ct. 2372; see *R.A.V.*, 505 U.S., at 388, 112 S.Ct. 2538 (approving certain content-based distinctions when there is “no significant danger of idea or viewpoint discrimination”). To do its intended work, of course, the category of content-based regulation triggering strict scrutiny must sweep more broadly than the actual harm; that category exists to create a buffer zone guaranteeing that

the government cannot favor or disfavor certain viewpoints. But that buffer zone need not extend forever. We can administer our content-regulation doctrine with a dose of common sense, so as to leave standing laws that in no way implicate its intended function.

And indeed we have done just that: Our cases have been far less rigid than the majority admits in applying strict scrutiny to facially content-based laws—including in cases just like this one. See *Davenport*, 551 U.S., at 188, 127 S.Ct. 2372 (noting that “we have identified numerous situations in which [the] risk” attached to content-based laws is “attenuated”). In *Members of City Council of Los Angeles v. Taxpayers for Vincent*, 466 U.S. 789, 104 S.Ct. 2118, 80 L.Ed.2d 772 (1984), the Court declined to apply strict scrutiny to a municipal ordinance that exempted address numbers and markers commemorating “historical, cultural, or artistic event[s]” from a generally applicable limit on sidewalk signs. *Id.*, at 792, n. 1, 104 S.Ct. 2118 (listing exemptions); see *id.*, at 804–810, 104 S.Ct. 2118 (upholding ordinance under intermediate scrutiny). After all, we explained, the law’s enactment and enforcement revealed “not even a hint of bias or censorship.” *Id.*, at 804, 104 S.Ct. 2118; see also *Renton v. Playtime Theatres, Inc.*, 475 U.S. 41, 48, 106 S.Ct. 925, 89 L.Ed.2d 29 (1986) (applying intermediate scrutiny to a zoning law that facially distinguished among movie theaters based on content because it was “designed to prevent crime, protect the city’s retail trade, [and] maintain property values . . . , not to suppress the expression of unpopular views”). And another decision involving a similar law provides an alternative model. In *City of Ladue v. Gilleo*, 512 U.S. 43, 114 S.Ct. 2038, 129 L.Ed.2d 36 (1994), the Court assumed *arguendo* that a sign ordinance’s exceptions for address

signs, safety signs, and for-sale signs in residential areas did not trigger strict scrutiny. See *id.*, at 46–47, and n. 6, 114 S.Ct. 2038 (listing exemptions); *id.*, at 53, 114 S.Ct. 2038 (noting this assumption). We did not need to, and so did not, decide the level-of-scrutiny question because the law’s breadth made it unconstitutional under any standard.

The majority could easily have taken *Ladue*’s tack here. The Town of Gilbert’s defense of its sign ordinance—most notably, the law’s distinctions between directional signs and others—does not pass strict scrutiny, or intermediate scrutiny, or even the laugh test. See *ante*, at 2231–2232 (discussing those distinctions). The Town, for example, provides no reason at all for prohibiting more than four directional signs on a property while placing no limits on the number of other types of signs. See Gilbert, Ariz., Land Development Code, ch. I, §§ 4.402(J), (P)(2) (2014). Similarly, the Town offers no coherent justification for restricting the size of directional signs to 6 square feet while allowing other signs to reach 20 square feet. See §§ 4.402(J), (P)(1). The best the Town could come up with at oral argument was that directional signs “need to be smaller because they need to guide travelers along a route.” Tr. of Oral Arg. 40. Why exactly a smaller sign better helps travelers get to where they are going is left a mystery. The absence of any sensible basis for these and other distinctions dooms the Town’s ordinance under even the intermediate scrutiny that the Court typically applies to “time, place, or manner” speech regulations. Accordingly, there is no need to decide in this case whether strict scrutiny applies to every sign ordinance in every town across this country containing a subject-matter exemption.

I suspect this Court and others will regret the majority’s insistence today on answering that question in the affirmative. As the years go by, courts will discover that thousands of towns have such ordinances, many of them “entirely reasonable.” *Ante*, at 2231. And as the challenges to them mount, courts will have to invalidate one after the other. (This Court may soon find itself a veritable Supreme Board of Sign Review.) And courts will strike down those democratically enacted local laws even though no one—certainly not the majority—has ever explained why the vindication of First Amendment values requires that result. Because I see no reason why such an easy case calls for us to cast a constitutional pall on reasonable regulations quite unlike the law before us, I concur only in the judgment.



**John WALKER, III, Chairman, Texas
Department of Motor Vehicles
Board, et al., Petitioners**

v.

**TEXAS DIVISION, SONS OF CON-
FEDERATE VETERANS,
INC., et al.
No. 14–144.**

Argued March 23, 2015.

Decided June 18, 2015.

Background: Nonprofit organization brought § 1983 action alleging that Texas Department of Motor Vehicles Board violated its First Amendment right to free speech when it denied organization’s application for specialty license plate featuring Confederate battle flag. The United States District Court for the Western District of

Board of Adjustment Item B-1

October 26, 2017
Reagan National Advertising of Austin, Inc.
Appeal of Permit Denial

C15-2017-0051

§ 25-1-192 - POWER TO ACT ON APPEAL.

“A body hearing an appeal may . . . exercise the power of the official or body whose decision is appealed. A decision may be upheld, modified, or reversed.”

Background Information

- Reagan National Advertising of Austin, Inc., is a local business with headquarters on Burleson Road
- Family-owned and operated for over 50 years
- Permit applications were to modernize the method by which fewer than one-dozen signs convey messages

Narrow Question

Do the Sign Regulations include restrictions that are based on the content of protected speech?

Timeline

- June 7: Reagan files permit applications
- June 8 (next day): Council directs staff to draft an ordinance to address constitutional defects
 - (RCA: purpose is to “remove all references to ‘content’ for noncommercial and on-premise signs”
- June 16: Law Department sends memo to P.C.
- June 21: Codes & Ordinances Joint Committee
- July 11: P.C. votes in favor of ordinance
- July 20: Staff issues letter rejecting applications
- August 17: Council adopts new Sign Regulations

Council's Response

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

1. The City Council initiates amendments to Title 25 of the City Code relating to the regulation of signs.
2. The City Manager is directed to:
 - (a) Develop proposed code amendments that are deemed appropriate to achieve consistency with federal and state case law affecting municipal sign regulation
 - (b) Include only those regulatory changes that are recommended based on recent case law

Reason No. 1 for Staff Determination: Degree of nonconformity

“These applications cannot be approved because they would . . . increase the degree of nonconformity with current regulations relating to off-premise signs.

Nonconforming Characteristics

NONCONFORMING SIGN means a sign that was lawfully installed at its current location but does not comply with the requirements of this chapter.

Relevant characteristics:

- Height
- Sign Area
- Off-Premise
- [NOT method of conveying message]

No Change in Nonconformity

- Height – no change
- Sign Area – no change
- Off-Premise – no change

No change in height, sign area, or location is proposed, so changing the method of message conveyance would not increase the degree of violation of any requirement that rendered the sign nonconforming.

Height and Sign Area Irrelevant

- The matter on appeal is staff denial and the basis for that denial.
- The stated reason for the denial was because there would be more nonconformity because approving the applications would change technology used to convey “off-premise commercial messages.”
- *Post hoc* justifications: only after the denial and appeal were sign height and area mentioned.

Reason No. 2 for Staff Determination: Method of conveying content

“These applications cannot be approved because they would . . . change the existing technology used to convey off-premise commercial messages.”

Rules Depend on Content

- On-Premise and Off-Premise signs are subject to different rules.

Rules for Signs with Off-Premise Message Content

- May not increase “the degree of the existing nonconformity”
- May not change “the method or technology used to convey a message”

Rules for Signs with On-Premise Message Content

- ~~May not increase “the degree of the existing nonconformity”~~
 - No such provision
- ~~May not change “the method or technology used to convey a message”~~
 - No such provision

Reed – U.S. Supreme Court (2015)

“A law that is content based on its face is subject to strict scrutiny regardless of the government’s benign motive, content-neutral justification, or lack of ‘animus toward the ideas contained’ in the regulated speech.”

Holdings:

1. Sign code was subject to strict scrutiny, and
2. Sign code violated free speech guarantees.

***Reed* – U.S. Supreme Court (2015)**

A law is content based, and therefore triggers strict scrutiny,

- (1) if “on its face [the law] draws distinctions based on the message a speaker conveys” or on the topic of the speech, or
- (2) if the law “cannot be justified without reference to the content of the regulated speech.”

***Reed* – U.S. Supreme Court (2015)**

“Content-based laws—those that target speech based on its communicative content—are presumptively unconstitutional and may be justified only if the government proves that they are narrowly tailored to serve compelling state interests.”

***Reed* – U.S. Supreme Court (2015)**

“The Sign Code, a paradigmatic example of content-based discrimination, singles out specific subject matter for differential treatment, even if it does not target viewpoints within that subject matter.”

Law Department Memorandum

Scope & Objective of Proposed Ordinance:

The proposed amendments, which were developed in consultation with City staff, seek to remove content as an element of the City's sign regulations, particularly with respect to noncommercial messages and signs advertising on-premise activity. **The goal is to ensure that, except for the well-established ban on new "off-premise" advertising (i.e., billboards), the City's sign regulations can be administered and enforced without having to read the sign.**

Other Content-Based Restrictions

§ 25-10-2(C) - NONCOMMERCIAL MESSAGE
SUBSTITUTION.

This section does not authorize the substitution of an off-premise commercial message in place of a noncommercial or on-premise commercial message.

***Auspro* - Tex. Court of Appeals (2016)**

“Under a strict-scrutiny analysis, which has been described as “ ‘strict’ in theory but usually ‘fatal’ in fact,’ the government has the burden of proving that the restriction furthers a compelling interest and is narrowly tailored to achieve that interest.”

Remedy under *Auspro*

- To resolve the Act's constitutional problems, *all of the content-based provisions must be severed.*

Non-Commercial Speech Affected

- Definition of “off-premise sign” is so broad as to encompass non-commercial speech:

OFF-PREMISE SIGN means a sign that displays any message directing attention to a business, product, service, profession, commodity, activity, event, person, institution, or other commercial message which is generally conducted, sold, manufactured, produced, offered, or occurs elsewhere than on the premises where the sign is located.

Non-Commercial Speech Affected

§ 25-10-2(A)- NONCOMMERCIAL MESSAGE
SUBSTITUTION.

No provision of this chapter prohibits an ideological, political, or other noncommercial message on a sign *otherwise allowed and lawfully displayed* under this chapter.

Violates “Purpose and Applicability”

§ 25-10-1 - PURPOSE AND APPLICABILITY.

(A) This chapter establishes a comprehensive system for the regulation of signs . . . to serve the following purposes:

(6) To prevent the inadvertent favoring of commercial speech over non-commercial speech, or favoring of any particular non-commercial speech over any other non-commercial speech based on its content.

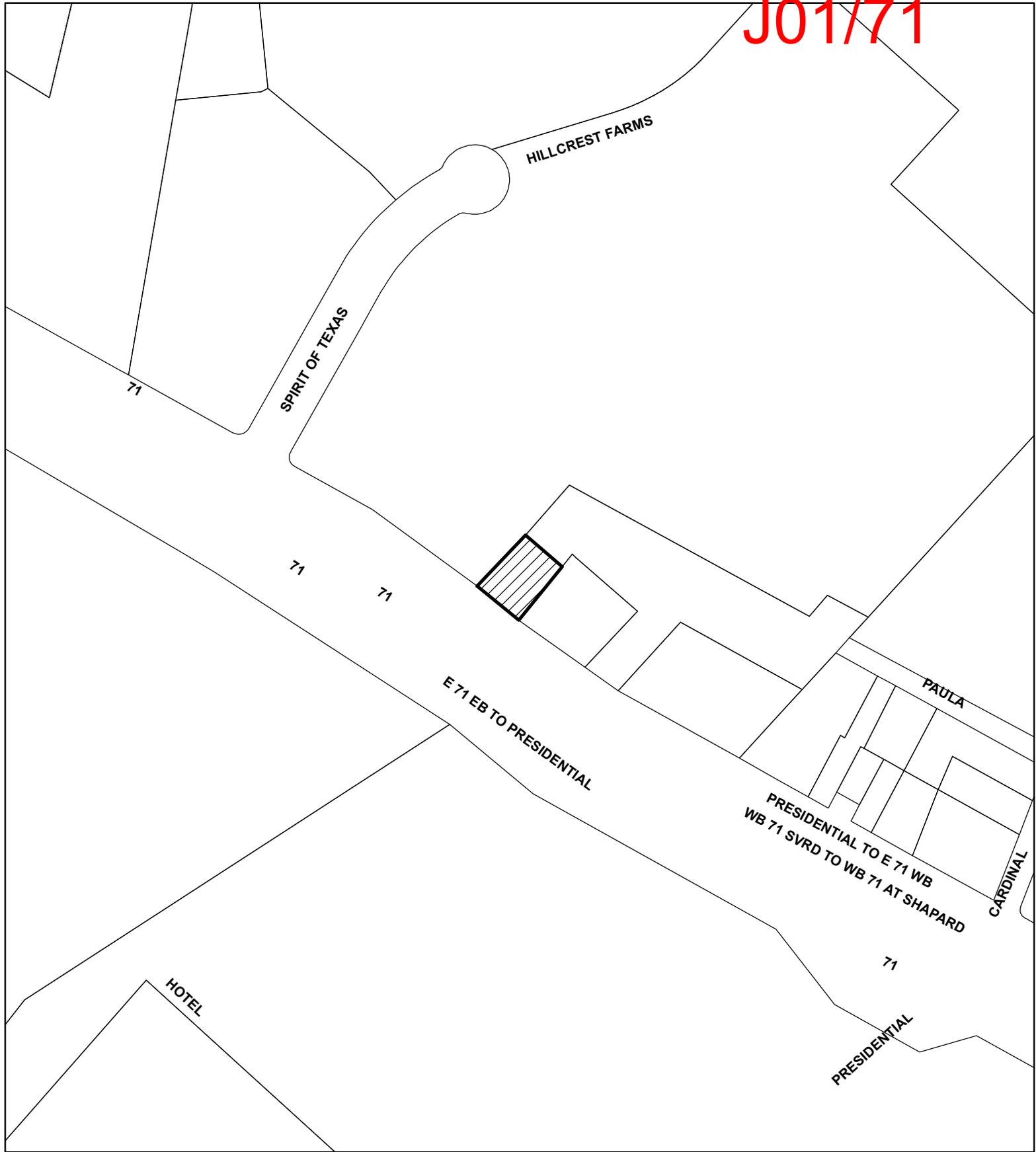
Violates “Purpose and Applicability”

(6) To prevent the inadvertent favoring of commercial speech over non-commercial speech, or favoring of any particular non-commercial speech over any other non-commercial speech based on its content.

The regulations unique to off-premise signs (degree of nonconformity; change in method of conveying message):

- Directly or inadvertently provides on-premise signs with rights superior to those of off-premise signs.
- This distinction is purely based on the content of the sign.

J01/71



NOTIFICATIONS

CASE#: C15-2017-0051
LOCATION: 2355 1/2 SH 71 E



-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY



1" = 273'

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.

This product has been produced by CTM for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.



CITY OF AUSTIN

Development Services Department

One Texas Center | Phone: 512.978.4000

505 Barton Springs Road, Austin, Texas 78704

Board of Adjustment Interpretations Application Appeal of an Administrative Decision

This application is a fillable PDF that can be completed electronically. To ensure your information is saved, [click here to Save](#) the form to your computer, then open your copy and continue.

The Tab key may be used to navigate to each field; Shift + Tab moves to the previous field. The Enter key activates links, emails, and buttons. Use the Up & Down Arrow keys to scroll through drop-down lists and check boxes, and hit Enter to make a selection.

The application must be complete and accurate prior to submittal. **If more space is required, please complete Section 6 as needed.** All information is required (if applicable).

For Office Use Only

Case # _____ ROW # _____ Tax # _____

Section 1: Applicant Statement

Street Address: There are 11 signs at issue. The attached letter includes a list of their addresses.

Subdivision Legal Description:

Lot(s): _____ Block(s): _____

Outlot: _____ Division: _____

Zoning District: Various

I/We Nikelle Meade on behalf of myself/ourselves as authorized agent for Reagan National Advertising of Austin, Inc. affirm that on Month August, Day 9, Year 2017, hereby apply for an interpretation hearing before the Board of Adjustment.

Development Services Department interpretation is:

Staff determined on July 20 that 11 Applications for Sign Permits could not be approved under Section 25-10-152 because they would change the existing technology used to convey off-premise commercial messages and increase the degree of nonconformity with current regulations of off-premise signs.

I feel the correct interpretation is:

The ordinances contained in the City Code as of the date of the applications were unconstitutional as content-based restrictions of speech. In the absence of a valid City Code with respect to off-premise signs, the City is unable to restrict Reagan's conversion of its outdoor advertising signs to digital copy.

Section 2: Findings

The Board must determine the existence of, sufficiency of and weight of evidence supporting the findings described below. Therefore, you must complete each of the applicable findings statements as part of your application. Failure to do so may result in your application being rejected as incomplete. Please attach any additional supporting documents.

- 1. There is a reasonable doubt of difference of interpretation as to the specific intent of the regulations or map in that:

The issue raised by Finding No. 1 is inapplicable, since this case does not present any question about specific intent. Rather, this appeal challenges the constitutionality of the regulations at issue. In fact, there is reasonable doubt as to the constitutionality of the regulations due to rulings by the U.S. Supreme Court and by the Austin Court of Appeals.

- 2. An appeal of use provisions could clearly permit a use which is in character with the uses enumerated for the various zones and with the objectives of the zone in question because:

This question is rendered moot by the unconstitutionality of the relevant ordinances. Moreover, the use of signage that presents digital messages is consistent with the uses of the various sites and zones in which the signs are located, especially considering that these signs are typically located in brightly-lit, commercial areas that also serve as transportation corridors.

- 3. The interpretation will not grant a special privilege to one property inconsistent with other properties or uses similarly situated in that:

A Board of Adjustment interpretation in favor of the appellant would not grant any similarly-situated property a special privilege, since a determination regarding the constitutionality of the relevant ordinances would apply equally to signs throughout the city.

Section 3: Applicant/Aggrieved Party Certificate

I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Applicant Signature: M. K. obo Reagan Date: 08/09/2017

Applicant Name (typed or printed): Reagan National Advertising of Austin, Inc.

Applicant Mailing Address: 114 W. 7th St., Ste. 1100

City: Austin State: TX Zip: 78744

Phone (will be public information): (512) 926-7740

Email (optional – will be public information): _____

Section 4: Owner Information

Owner Name: Reagan National Advertising of Austin, Inc.

Owner Mailing Address: 114 W. 7th St., Ste. 1100

City: Austin State: TX Zip: 78744

Section 5: Agent Information

Agent Name: Nikelle Meade, Husch Blackwell

Agent Mailing Address: 111 Congress Ave., Ste. 1400

City: Austin State: TX Zip: 78701

Phone (will be public information): (512) 472-5456

Email (optional – will be public information): _____

Section 6: Additional Space (if applicable)

Please use the space below to provide additional information as needed. To ensure the information is referenced to the proper item, include the Section and Field names as well (continued on next page).

Reagan seeks a finding under Reed v. Town of Gilbert, Arizona, 135 S. Ct. 2218 (2015) and Auspro Enterprises, LP v. Texas Dep't of Transp., 506 S.W.3d 688 (Tex. App.—Austin 2016, pet. filed) that the ordinances contained in the City Code as of the date of Reagan's applications were unconstitutional as content-based restrictions of speech.

In Reed, the United States Supreme Court found that the Sign Code of Gilbert, Arizona restricted signs depending upon the "communicative content of the sign." 135 S.Ct. at 2227. Gilbert's sign ordinances made a distinction between on-premises signs and off-premises signs that the Court said depended on what the signs said. Id. at 2222. Because Gilbert was regulating signs based upon what the signs said, those regulations were unconstitutional as a violation of the First

Additional Space (continued)

[Section 6, cont'd.]

Amendment protection of speech and were struck. *Id.* at 2232. In *Auspro*, the Austin Court of Appeals found that two subchapters of the Texas Highway Beautification Act were severed from that Act as unconstitutional because those subchapters regulated outdoor advertising based on the content of the advertising. 506 S.W.3d at 707. In essence, these cases indicate that, if you have to read the sign to determine whether the sign is legal, then the regulation is content-based.

Chapter 25-10 of the City Code requires a person to read the content of any sign to determine which City ordinances apply to that particular sign. For example, Chapter 25-10 distinguishes between on-premise and off-premise signs and applies a different set of rules to each. An off-premise sign is one that advertises something not located on the site where the sign is installed or that directs persons to a location not on that site.² See Chapter 25-10-3(11) (defining off-premise signs). To decide whether something is an off-premise or on-premise sign, one must read the sign. Only then can a person know what rules apply.

Off-premise signs are prohibited, unless a building official determines they are a non-conforming sign, meaning a sign that was lawful when installed but which does not comply with Chapter 25-10. See Section 25-10-102(1)(prohibiting off-premise signs) and 25-10-3(10)(defining nonconforming signs). Additionally, on-premise signs can be digital, while off-premise signs cannot. See Section 25-10-102(6)(allowing electronically controlled changeable copy signs for on-premise signs) and Section 25-10-152(B)(2)(b)(disallowing a change in the method or technology used to convey a message on a nonconforming sign).

Under *Reed* and *Auspro*, Chapter 25-10 of the City's Code is a content-based regulation of speech to which strict scrutiny must apply. If the City is not able to show that the restrictions further a compelling interest and are narrowly tailored to achieve that interest, the regulations must be deemed unconstitutional. If the City's ordinances, which are based upon the content of the signs, are unconstitutional, those ordinances—including the requirement that Reagan needs permits—are invalid and unenforceable. See *In re Hinterlong*, 109 S.W.3d 611, 636 (Tex. App.—Fort Worth 2003, orig. proceeding) (“An unconstitutional statute is void and cannot provide a basis for any right or relief.”).

If the City's ordinances are invalid, then the City had no authority to require Reagan to obtain permits for the conversion of off-premise signs to digital copy. For these reasons, Chapter 25-10 (or any relevant part of Chapter 25-10) is an unconstitutional content-based regulation of speech.

SAVE

HUSCH BLACKWELL

111 Congress Avenue, Suite 1400
Austin, Texas 78701
512.472.5456

Nikelle S. Meade
Partner
512.479.1147 direct
512.226.7373 fax

nikel [REDACTED]

August 9, 2017

VIA HAND DELIVERY

Leane Heldenfels, Senior Planner
Board of Adjustment Liaison
City of Austin Development Services Department
505 Barton Springs Road, 1st Floor
Austin, Texas 78704

Re: Notice of Appeal and Interested Party Status for an Appeal of Administrative Decision

Dear Ms. Heldenfels:

This letter is on behalf of the appellant, Reagan National Advertising of Austin, Inc. (“Reagan”). This serves as Reagan’s Notice of Appeal and to satisfy Requirement Number 2 of the Board of Adjustment Interpretations Application for an Appeal of an Administrative Decision (the “Application”). The staff determination at issue (the “Determination”) is in Assistant Director Andrew Linseisen’s letter, dated July 20 and received July 24, rejecting Reagan’s permit applications, which requested approval for the installation of digital sign faces on eleven non-conforming off-premise signs owned or operated by Reagan.

In addition, Reagan confirms that it has standing to appeal the Determination, and that it meets the overall requirements to appeal the Determination as set forth in Section 25-1-131(A) and (B) of the City of Austin Land Development Code (the “Code”). Specifically, Reagan qualifies as an interested party under Code Section 25-1-131(A)(1), since Reagan is the applicant or the record owner of property that is the subject of a public hearing or administrative decision.

Please contact us if you need anything further regarding this appeal.

Sincerely,



Nikelle Meade



505 Barton Springs Road Austin, TX 78704 | 512-978-4000 | DevelopmentATX.com

July 20, 2017

Sent By Certified Mail (w/ Enclosures)

B. Russ Horton
George Brothers Kincaid & Horton, LLP
114 West 7th Street, Suite 1100
Austin, Texas 78701

Re: Applications to Install Digital Sign Faces on Nonconforming Off-Premise Signs

Dear Mr. Horton:

On behalf of the Development Services Department, I am writing in response your letter and accompanying permit applications dated June 7, 2017, which request approval for the installation of “digital sign faces” on 11 non-conforming off-premise signs owned or operated by your client, Reagan National Advertising of Austin, Inc..

These applications cannot be approved under Section 25-10-152 (*Nonconforming Signs*) because they would change the existing technology used to convey off-premise commercial messages and increase the degree of nonconformity with current regulations relating to off-premise signs. This conclusion applies to all of the 11 applications submitted, including those pertaining to both static non-electrical signs and “electronically controlled changeable copy” signs. None of the 11 off-premise signs were permitted as digital signs and cannot now be replaced, modified, or altered to include digital sign faces.

The cases cited in your letter do not concern the regulation of off-premise commercial advertising, nor are we aware of any legal authority that prohibits the municipal regulation of off-premise commercial signs. Therefore, based on consultation with the Law Department, the applicable provisions of Chapter 25-10 (*Sign Regulations*) prohibiting approval of your client’s applications are valid and controlling.

For these reasons, the above-referenced applications are *disapproved*. Additionally, since you have requested no other potentially approvable modifications to any of the 11 signs, I am returning the applications and accompanying documents to you via certified mail.

Sincerely,

Andrew J. Linseisen, P.E., Assistant Director
Development Service Department

cc: J. Rodney Gonzales, Director
Christopher Johnson, Division Manager – Development Assistance Center
Development Services Department
Brent Lloyd, Assistant City Attorney
City of Austin Law Department



B. RUSS HORTON

1100 NORWOOD TOWER | 114 WEST 7TH ST | AUSTIN, TX 78701
512.495.1400 | FAX 512.499.0094 | R [REDACTED]

June 7, 2017

Via Hand Delivery

City of Austin – Development Services Department
Development Assistance Center – One Texas Center
505 Barton Springs Road
Austin, Texas 78704

Re: Applications for Sign Permits/Digital Sign Face
The Following Addresses:

- 3405 S Congress
- 7301 Burlison Rd
- 1527 1/2 SH 71 E
- 2355 1/2 SH 71 E
- 9127 1/2 IH 35 N
- 13443 N FM 620
- 13301 1/2 US Hwy 183 N
- 1809 Manor Rd
- 308 1/2 IH 35 N
- 400 1/2 IH 35 N
- 410 W 18th St

Dear Sir or Madam:

I write on behalf of Reagan National Advertising of Austin, Inc. to request that the City issue permits for the installation of digital sign faces on the above listed existing sign structures. Enclosed are the permit applications for these locations, which are being submitted in administratively complete form. Reagan has included a separate check with each application. Each of the eleven checks is in the amount of \$85.28. If the City determines that the enclosed applications are not administratively complete, I request that you notify me immediately of such determination and allow a statutorily compliant opportunity to complete the applications.

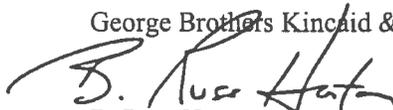
Reagan further asserts, in light the recent authorities of *Reed v. Town of Gilbert, Arizona*, 135 S. Ct. 2218 (2015) and *Auspro Enters, LP v. Texas Dep't. of Transp.*, 506 S.W.3d 688 (Tex. App.—Austin, 2016, pet. filed), that the City review these applications in conformity with the Constitutional constraints precluding the City from limiting my client's rights of free speech and expression.

Reagan asks that the City review and approve these permit applications in a prompt and reasonable manner. If you have any questions or would like to discuss this issue, please call.

GEORGE BROTHERS KINCAID & HORTON, L.L.P.
PAGE 2

Yours sincerely,

George Brothers Kincaid & Horton, L.L.P.



B. Russ Horton

Enclosures



Development Services Department
APPLICATION FOR SIGN PERMIT
(PLEASE PRINT)

ONLY COMPLETE APPLICATIONS WITH ALL REQUIRED DOCUMENTS WILL BE ACCEPTED

APPLICATION DATE:

CASE NUMBER:

ADDRESS OF SIGN: 308 1/2 N IH 35	LEGAL DESCRIPTION TAX PARCEL I.D.#: 191631	LOT 7-8	BLOCK 036
----------------------------------	--	---------	-----------

SIGN OWNER: Reagan National Advertising of Austin, Inc.	SUBDIVISION:
---	--------------

SIGN COMPANY: Reagan National Adv.	CONTACT: Doug Lister	PHONE: (512) 926-7740	FAX:
------------------------------------	----------------------	-----------------------	------

SIGN COMPANY'S ADDRESS: (ADDRESS/CITY/ST/ZIP) 7301 Bureson Rd, Austin, Tx 78744	EMAIL:
--	--------

PROPOSED ADVERTISEMENT:	ELEVATION (CIRCLE ONE): NORTH SOUTH EAST <u>WEST</u>
-------------------------	--

DESCRIPTION OF WORK TO BE DONE: Conversion to electronically controlled changeable-copy sign

----- WALL SIGN (BUILDING, CANOPY, AWNING) -----

SIGN FACE DIMENSIONS:	TOTAL SIGN FACE AREA OF THIS PERMIT:	TOTAL AREA OF EXISTING SIGNS ON FACADE:
-----------------------	--------------------------------------	---

DIMENSIONS OF BUILDING FAÇADE (WIDTH X HEIGHT):	ELECTRIC SIGN: YES/NO	(NOTE: IF YES, ELECTRIC PERMIT IS REQUIRED BEFORE ISSUANCE OF SIGN INSTALLATION PERMIT)
---	-----------------------	---

----- FREESTANDING SIGN, ROOF SIGN, PROJECTING SIGN -----

SIGN FACE DIMENSIONS: 14' x 48'	TOTAL SIGN FACE AREA OF THIS PERMIT: 672'	TOTAL HEIGHT OF SIGN: As existing
---------------------------------	---	-----------------------------------

SETBACK OF SIGN? (DISTANCE FROM SIGN TO PROPERTY LINE): 10'	CLEARANCE ABOVE GRADE: As existing	LINEAR FEET OF STREET FRONTAGE: 139'	NUMBER OF OTHER FREESTANDING SIGNS ON THIS PROPERTY: 0
---	------------------------------------	--------------------------------------	--

IS THIS A PAD SITE? YES/NO:	ROOF SIGN? YES/NO:	ELEC? YES/NO:	SIZE OF EACH SIGN SUPPORT? (POLE, COLUMN, ETC.): 48"
-----------------------------	--------------------	---------------	--

REGISTERED BILLBOARD (OFF-PREMISE) SIGN? YES/NO:	ELECTRIC SIGN: YES/NO	(NOTE: IF YES, ELECTRIC PERMIT IS REQUIRED BEFORE ISSUANCE OF SIGN INSTALLATION PERMIT)
--	-----------------------	---

WILL PROPOSED SIGN BE LOCATED WITHIN A P.U.E.? YES/NO: IF YES, THE HOLDER OF THE PUBLIC EASEMENT MUST BE CONTACTED FOR CLEARANCE

NOTE: SIGNS MUST MAINTAIN HORIZONTAL AND VERTICAL CLEARANCE OF ALL OVERHEAD ELECTRICAL CONDUCTORS IN ACCORDANCE WITH SPECIFICATIONS OF THE NATIONAL ELECTRICAL CODE, LOCAL CODE AMENDMENTS, AND ALL OTHER APPLICABLE LAWS

(SIGNATURES IN THESE BLANKS INDICATE THAT THE PROPERTY OWNER IS AWARE OF THE APPLICATION FOR A SIGN PERMIT AND THAT ALL OF THE ABOVE INFORMATION IS TRUE AND CORRECT)

William Ray II
 SIGNATURE OF SIGN COMPANY REPRESENTATIVE

Darin W. Peth LIC# 19879
 SIGNATURE OF LICENSE ELECTRICIAN (REQUIRED FOR ELECTRICAL SIGNS)
 AUTHORIZATION FOR SIGN COMPANY TO PULL ELECTRIC PERMIT? YES/NO

DEPARTMENT USE ONLY

PERMIT FEE:	ELECTRIC PERMIT FEE:	PLAN REVIEW FEE:	DATE:	RECEIPT#
-------------	----------------------	------------------	-------	----------

GRID:	ZONING:	ENGINEERING SEAL REQUIRED? YES/NO	SIGN DISTRICT:
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REMARKS:

<input type="checkbox"/> APPROVE <input type="checkbox"/> DISAPPROVE	ZONING REVIEW ANALYST:	DATE:
--	------------------------	-------

UPDATE SUBMITTAL DATE:	ZONING REVIEW ANALYST:	DATE:
------------------------	------------------------	-------

<input type="checkbox"/> APPROVE <input type="checkbox"/> DISAPPROVE		
--	--	--



Development Services Department

SIGN PERMIT PROCESS**SUBMITTAL REQUIREMENTS:**

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*Travis County Appraisal District 834-9317
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feet 500
meters 100

Google Earth

GRC ENGINEERING, INC.
 1374 W. 17TH STREET
 AUSTIN, TEXAS 78741
 TEL: 479-3400

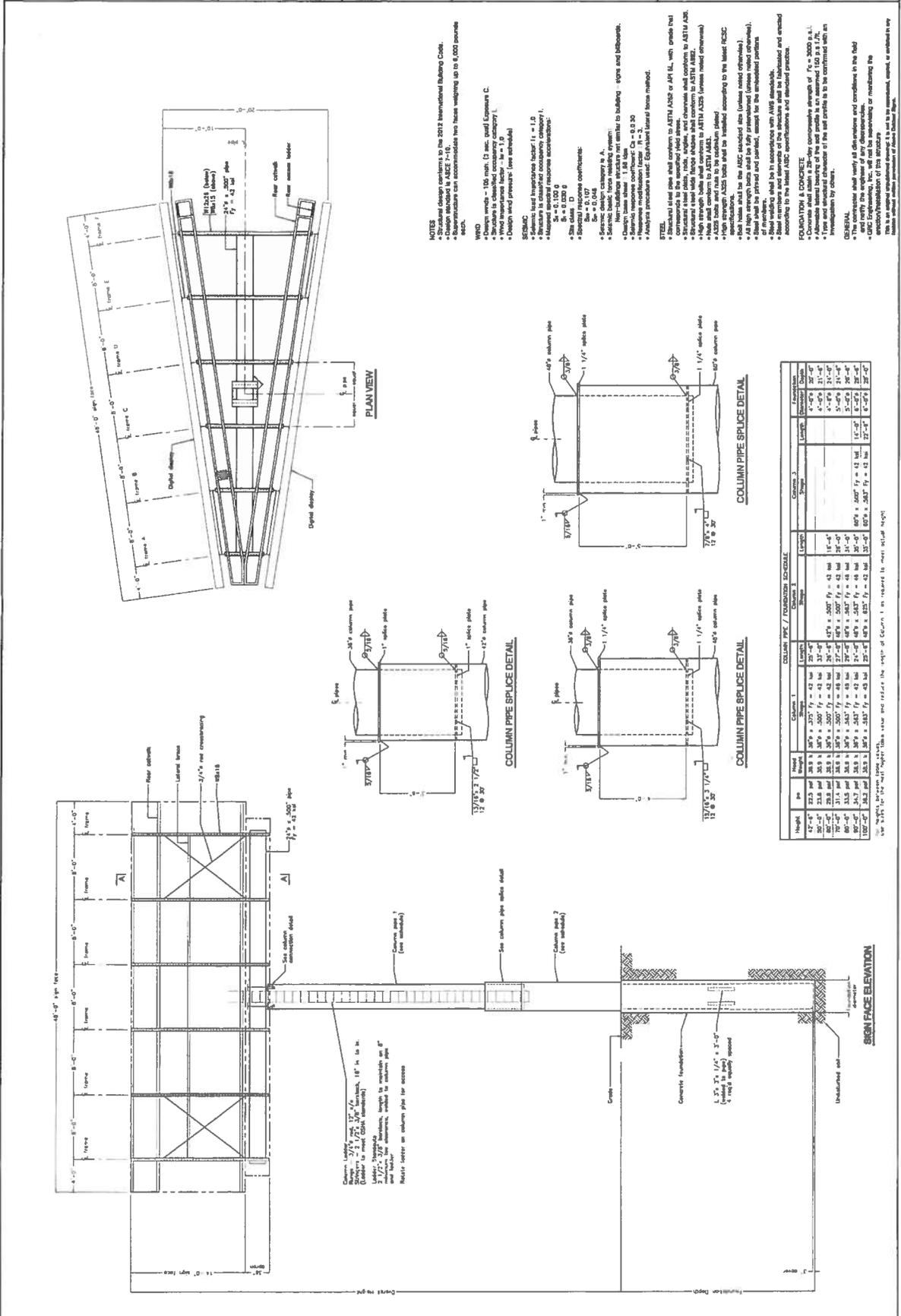
GRC Engineering, Inc.
 Engineering Firm
 P11884

DESIGNER	Y	CM	MS
DATE	04/11/84		
BY	11-1-83		

ALAMO OUTDOOR SIGNS
 18800 GOLF STREET
 SAN ANTONIO, TX 78288

MONOPOLE SIGN STRUCTURE
 DIGITAL DISPLAY
 AUSTIN, TEXAS

CURT NO. 00
 REC NO. 13-002-126
 DRAWING NO. 16837
 1 of 2



GRC ENGINEERING, INC.
 5044 S. 177th STREET
 CANTON, MISSISSIPPI 39046
 TEL: 601-848-0400

GRC Engineering, Inc.
 1860 GOLF STREET
 SAN ANTONIO, TX 78208
 18637

ALAMO OUTDOOR SIGNS
 1860 GOLF STREET
 SAN ANTONIO, TX 78208

MONOPOLE SIGN STRUCTURE
 CENTERMOUNT V
 AUSTIN, TEXAS

00
 13-008-100
 18637

2 of 2

**SECTION A-A
FRAME DETAIL**

FRAME MOUNTING DETAIL

DETAIL D

APRON STRINGER MOUNTING DETAIL

CROSSBRACING DETAIL

CATWALK MOUNTING DETAIL

CATWALK SPURCE DETAIL

CATWALK DETAIL

SECTION B-B

COLUMN CONNECTION DETAIL

COLUMN PIPE BUTT SPURCE

VENDOR: REMIT TO:	VC121 CITY OF AUSTIN	CHECK: COMMENT:	0000460426	DATE:	6/2/2017
20170601-C	6/1/2017	0000076253	DIGITAL PERMIT APPLICATION	85.28	0.00
				85.28	0.00
				85.28	85.28

THIS CHECK IS VOID WITHOUT A BLUE & RED BACKGROUND AND A WATERMARK. HOLD UP TO THE LIGHT TO VERIFY.

Reagan National Advertising of Austin, Inc.
 1775 North Warm Springs Road
 Salt Lake City, Utah 84116



0000460426

DATE	6/2/2017
AMOUNT	\$**85.28

PAY Eighty-five and 28 / 100 U.S. Dollar

TO THE
ORDER
OF
CITY OF AUSTIN
P.O. BOX 1088
Austin, TX 78767
USA

CHECK IS PRINTED ON SECURITY PAPER WHICH INCLUDES A MICROPRINT BORDER & FLUORESCENT FIBERS

⑆460426⑆ ⑆24302150⑆ 153195061947⑆



B. RUSS HORTON

1100 NORWOOD TOWER | 114 WEST 7TH ST | AUSTIN, TX 78701
512.495.1400 | FAX 512.499.0094 | [REDACTED]

June 7, 2017

Via Hand Delivery

City of Austin – Development Services Department
Development Assistance Center – One Texas Center
505 Barton Springs Road
Austin, Texas 78704

Re: Applications for Sign Permits/Digital Sign Face
The Following Addresses:

- 3405 S Congress
- 7301 Burluson Rd
- 1527 1/2 SH 71 E
- 2355 1/2 SH 71 E
- 9127 1/2 IH 35 N
- 13443 N FM 620
- 13301 1/2 US Hwy 183 N
- 1809 Manor Rd
- 308 1/2 IH 35 N
- 400 1/2 IH 35 N
- 410 W 18th St

Dear Sir or Madam:

I write on behalf of Reagan National Advertising of Austin, Inc. to request that the City issue permits for the installation of digital sign faces on the above listed existing sign structures. Enclosed are the permit applications for these locations, which are being submitted in administratively complete form. Reagan has included a separate check with each application. Each of the eleven checks is in the amount of \$85.28. If the City determines that the enclosed applications are not administratively complete, I request that you notify me immediately of such determination and allow a statutorily compliant opportunity to complete the applications.

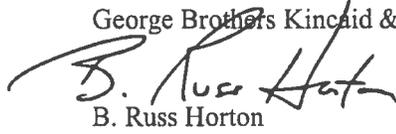
Reagan further asserts, in light the recent authorities of *Reed v. Town of Gilbert, Arizona*, 135 S. Ct. 2218 (2015) and *Auspro Enters, LP v. Texas Dep't. of Transp.*, 506 S.W.3d 688 (Tex. App.—Austin, 2016, pet. filed), that the City review these applications in conformity with the Constitutional constraints precluding the City from limiting my client's rights of free speech and expression.

Reagan asks that the City review and approve these permit applications in a prompt and reasonable manner. If you have any questions or would like to discuss this issue, please call.

GEORGE BROTHERS KINCAID & HORTON, L.L.P.
PAGE 2

Yours sincerely,

George Brothers Kincaid & Horton, L.L.P.



B. Russ Horton

Enclosures



Development Services Department

SIGN PERMIT PROCESS**SUBMITTAL REQUIREMENTS:**

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Google Earth



200
80

feet
meters

Google Earth

400 1/2 N IH 35

VENDOR: REMIT TO:	VC121 CITY OF AUSTIN	CHECK: COMMENT:	0000460427	DATE:	6/2/2017
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	0000076270		85.28	0.00	85.28

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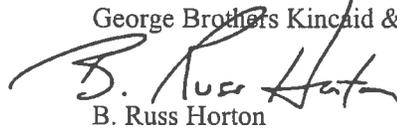
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GEORGE BROTHERS KINCAID & HORTON, L.L.P.
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Yours sincerely,

George Brothers Kincaid & Horton, L.L.P.

A handwritten signature in black ink, appearing to read "B. Russ Horton". The signature is written in a cursive style with a large, stylized initial "B".

B. Russ Horton

Enclosures



Development Services Department
APPLICATION FOR SIGN PERMIT

(PLEASE PRINT)

ONLY COMPLETE APPLICATIONS WITH ALL REQUIRED DOCUMENTS WILL BE ACCEPTED

APPLICATION DATE:

CASE NUMBER:

ADDRESS OF SIGN: 410 W 18th Street		LEGAL DESCRIPTION TAX PARCEL I.D.#: 199823	LOT	BLOCK
SIGN OWNER: Reagan National Advertising of Austin, Inc.		SUBDIVISION:		
SIGN COMPANY: Reagan National Adv.	CONTACT: Doug Lister	PHONE: (512) 926-7740	FAX:	
SIGN COMPANY'S ADDRESS: (ADDRESS/CITY/ST/ZIP) 7301 Burleson Rd, Austin, Tx 78744		EMAIL:		
PROPOSED ADVERTISEMENT:		ELEVATION (CIRCLE ONE): NORTH SOUTH EAST WEST		

DESCRIPTION OF WORK TO BE DONE: Conversion to electronically controlled changeable-copy sign

----- WALL SIGN (BUILDING, CANOPY, AWNING) -----

SIGN FACE DIMENSIONS:	TOTAL SIGN FACE AREA OF THIS PERMIT:	TOTAL AREA OF EXISTING SIGNS ON FACADE:
DIMENSIONS OF BUILDING FAÇADE (WIDTH X HEIGHT):	ELECTRIC SIGN: YES/NO (NOTE: IF YES, ELECTRIC PERMIT IS REQUIRED BEFORE ISSUANCE OF SIGN INSTALLATION PERMIT)	

----- FREESTANDING SIGN, ROOF SIGN, PROJECTING SIGN -----

SIGN FACE DIMENSIONS: 14' x 48'	TOTAL SIGN FACE AREA OF THIS PERMIT: 672'	TOTAL HEIGHT OF SIGN: As existing
SETBACK OF SIGN? (DISTANCE FROM SIGN TO PROPERTY LINE): 25'	CLEARANCE ABOVE GRADE: As existing	LINEAR FEET OF STREET FRONTAGE: 140'
IS THIS A PAD SITE? YES/NO:	ROOF SIGN? YES/NO:	ELEC? YES NO
REGISTERED BILLBOARD (OFF-PREMISE) SIGN? YES/NO:	ELECTRIC SIGN: YES/NO	NUMBER OF OTHER FREESTANDING SIGNS ON THIS PROPERTY: 1
		SIZE OF EACH SIGN SUPPORT? (POLE, COLUMN, ETC.): 42"

WILL PROPOSED SIGN BE LOCATED WITHIN A P.U.E.? YES/NO IF YES, THE HOLDER OF THE PUBLIC EASEMENT MUST BE CONTACTED FOR CLEARANCE

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Dan [Signature] LIC# 19879

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DEPARTMENT USE ONLY

PERMIT FEE:	ELECTRIC PERMIT FEE:	PLAN REVIEW FEE:	DATE:	RECEIPT#
-------------	----------------------	------------------	-------	----------

GRID:	ZONING:	ENGINEERING SEAL REQUIRED? YES/NO	SIGN DISTRICT:
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REMARKS:

<input type="checkbox"/> APPROVE <input type="checkbox"/> DISAPPROVE	ZONING REVIEW ANALYST:	DATE
--	------------------------	------

UPDATE SUBMITTAL DATE:	ZONING REVIEW ANALYST:	DATE
------------------------	------------------------	------

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Development Services Department

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Google Earth



feet 300
meters 100

Google Earth

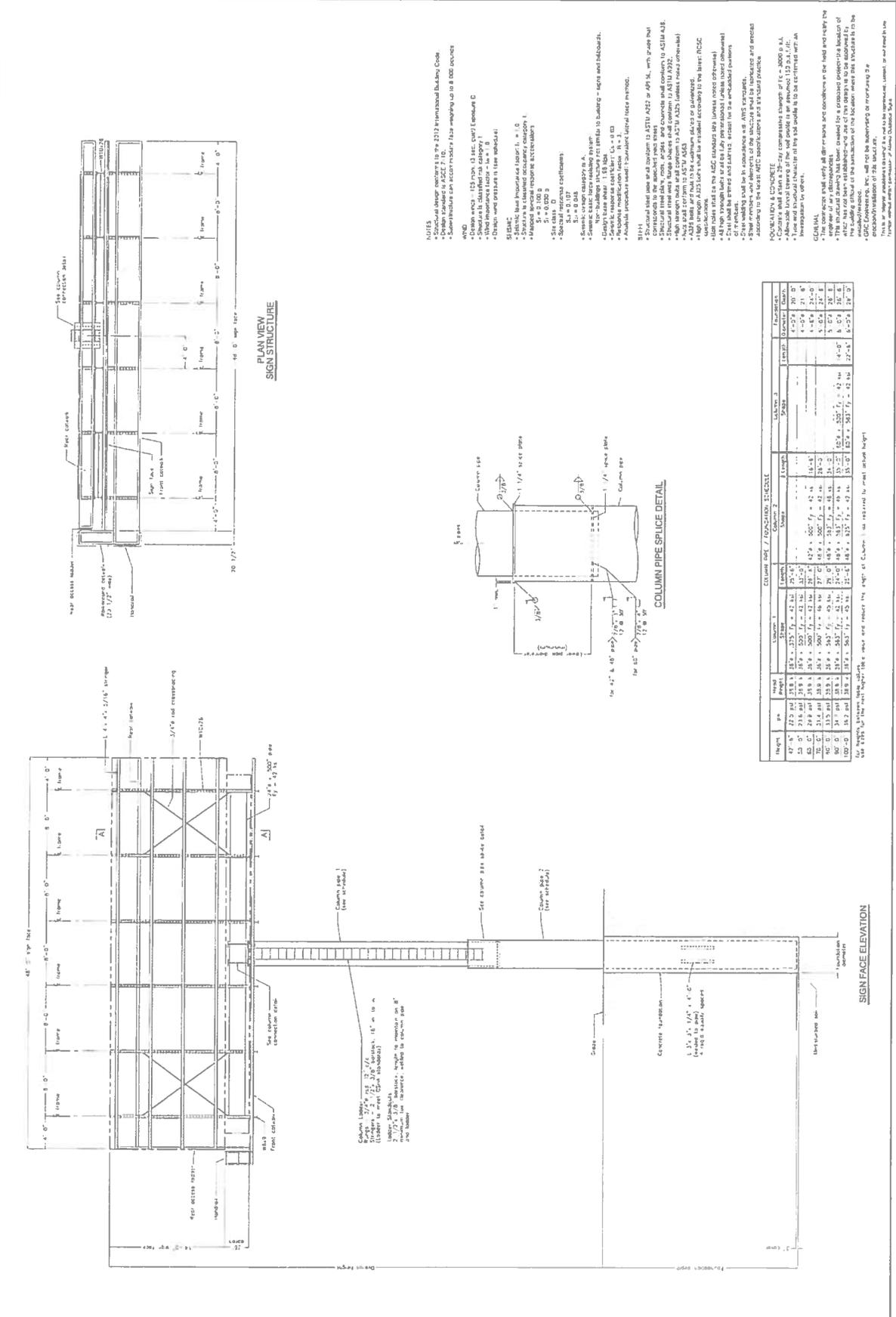


GFC ENGINEERING, INC.
DAVID GREENE, LEAD DESIGNER
DAVID GREENE, LEAD DESIGNER
DAVID GREENE, LEAD DESIGNER

18660 GOLF STREET
SAN ANTONIO, TX 78266

MONOPOLE SIGN STRUCTURE
CENTRAL MOUNT SINGLE FACE
DIGITAL DISPLAY
AUSTIN, TEXAS

DATE: 1/17/15
DRAWN BY: [Signature]
CHECKED BY: [Signature]

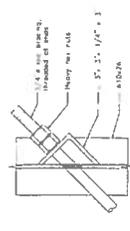


- NOTES**
- 1. Refer to project notes for 10-213 International Building Code
 - 2. Design standard is ASCE 7-10.
 - 3. Superstructure can accommodate face weighing up to 8,000 pounds
- WIND**
- 1. Wind speed = 120 mph (10 sec gust) (Exposure C)
 - 2. Structure is classified risk category 1
 - 3. The importance factor is $I = 1.0$
 - 4. The wind directionality factor is $K_d = 0.85$
- SEISMIC**
- 1. Seismic base importance factor: $I_s = 1.0$
 - 2. Structure is classified occupancy category 1
 - 3. $S = 0.100$ (short period spectral acceleration)
 - 4. Site class is $S = 1$
 - 5. Seismic response coefficient: $C_s = 0.043$
 - 6. Seismic design category is B
 - 7. Non-building structure (101) relative to building - legs and subcolumns.
 - 8. Seismic response coefficient: $R = 0.0$
 - 9. Seismic modification factor: $R = 1.0$
 - 10. Seismic design spectral response acceleration parameter: $S_{DS} = 0.100$
- STEEL**
- 1. Structural steel shall be A572M or A572 or A570 or A570M, with grade 50.
 - 2. Structural steel shall be 36ksi yield strength steel conforming to ASTM A36.
 - 3. Structural steel shall be 50ksi yield strength steel conforming to ASTM A572.
 - 4. All steel shall be painted with a minimum of two coats of primer and two coats of paint conforming to ASTM A549.
 - 5. All steel shall be galvanized to meet the minimum galvanized coating requirements of ASTM A653.
 - 6. All steel shall be primed and painted: primer for the embedded portions and paint for the exposed portions.
 - 7. The welding shall be in accordance with AWS D1.1.
 - 8. The welding shall be in accordance with AWS D1.1.
 - 9. The welding shall be in accordance with AWS D1.1.
 - 10. The welding shall be in accordance with AWS D1.1.
- CONCRETE**
- 1. Concrete shall be 28-day compressive strength of $f'_c = 3000$ p.s.i.
 - 2. Concrete shall be in accordance with ACI 308.2R-03.
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- GENERAL**
- 1. The structural drawings shall be checked for a proposed project location of the building and the location of the building shall be checked to be in accordance with the local zoning ordinance.
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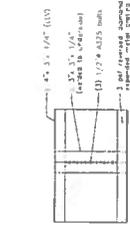
Height	Wind Speed	Column 1		Column 2		Column 3	
		Length	Area	Length	Area	Length	Area
47'-6"	120 mph	18.5	335.2	12.5	156.2	4.0	160.0
45'-0"	115 mph	18.5	335.2	12.5	156.2	4.0	160.0
42'-6"	110 mph	18.5	335.2	12.5	156.2	4.0	160.0
40'-0"	105 mph	18.5	335.2	12.5	156.2	4.0	160.0
37'-6"	100 mph	18.5	335.2	12.5	156.2	4.0	160.0
35'-0"	95 mph	18.5	335.2	12.5	156.2	4.0	160.0
32'-6"	90 mph	18.5	335.2	12.5	156.2	4.0	160.0
30'-0"	85 mph	18.5	335.2	12.5	156.2	4.0	160.0
27'-6"	80 mph	18.5	335.2	12.5	156.2	4.0	160.0
25'-0"	75 mph	18.5	335.2	12.5	156.2	4.0	160.0
22'-6"	70 mph	18.5	335.2	12.5	156.2	4.0	160.0
20'-0"	65 mph	18.5	335.2	12.5	156.2	4.0	160.0
17'-6"	60 mph	18.5	335.2	12.5	156.2	4.0	160.0
15'-0"	55 mph	18.5	335.2	12.5	156.2	4.0	160.0
12'-6"	50 mph	18.5	335.2	12.5	156.2	4.0	160.0
10'-0"	45 mph	18.5	335.2	12.5	156.2	4.0	160.0

Column 1: 18.5" dia, 335.2 sq ft area, 12.5' length
 Column 2: 12.5" dia, 156.2 sq ft area, 4.0' length
 Column 3: 4.0" dia, 160.0 sq ft area, 4.0' length

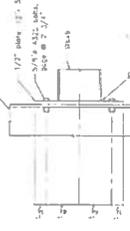
 <p>GRC ENGINEERING, INC. STRUCTURAL ENGINEERS 1800 WEST 10TH STREET DALLAS, TEXAS 75208 TEL: 972-242-1111</p>	<p>GRC Engineering, Inc. Engineering Firm P-18843</p>	<p>ALAMO OUTDOOR SIGNS 10000 GOLF STREET SAN ANTONIO, TX 78268</p>	<p>MONOPILE SIGN STRUCTURE CENTERMOUNT SINGLE FACE DIGITAL DISPLAY AUSTIN, TEXAS</p>	<p>GRC No. 17135 Drawing No. 2 Sheet of 2</p>
--	---	---	--	---



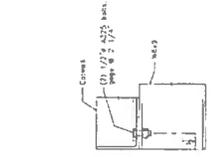
CROSSBRACING DETAIL



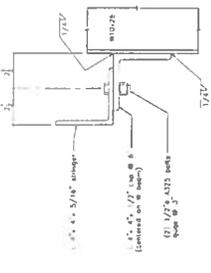
CATWALK SPLICE DETAIL



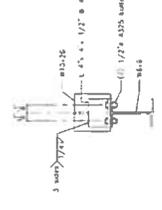
DETAIL



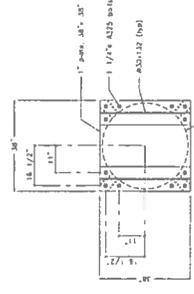
CATWALK MOUNTING DETAIL



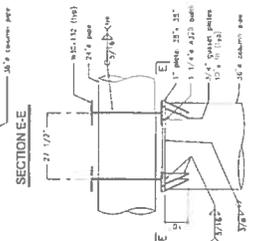
STRINGER MOUNTING DETAIL



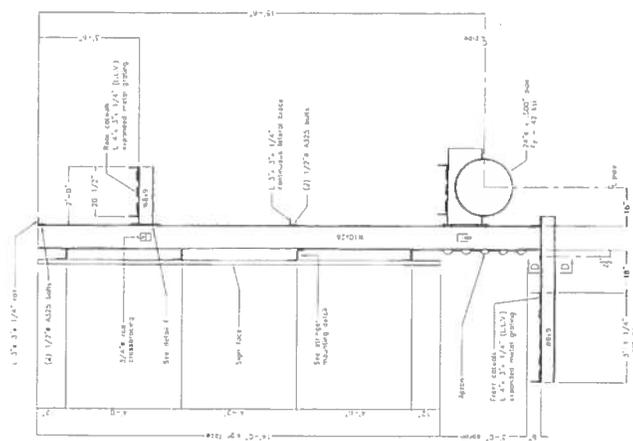
SECTION D-D



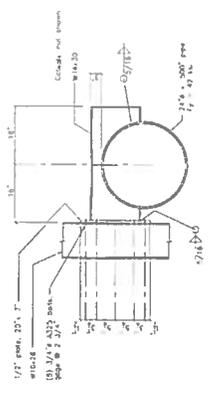
SECTION E-E



COLUMN CONNECTION DETAIL



**SECTION A-A
FRAME DETAIL**



FRAME MOUNTING DETAIL

VENDOR: REMIT TO:	VC121 CITY OF AUSTIN	CHECK: COMMENT:	0000460419	DATE:	6/2/2017
20170601-K	6/1/2017	0000076275	DIGITAL PERMIT APPLICATION	85.28	85.28
				0.00	85.28
				85.28	0.00
					85.28

THIS CHECK IS VOID WITHOUT A BLUE & RED BACKGROUND AND A WATERMARK - HOLD UP TO THE LIGHT TO VERIFY

Reagan National Advertising of Austin, Inc.
 1775 North Warm Springs Road
 Salt Lake City, Utah 84116

usbank
 US Bank
 97-215/1243

0000460419

DATE	6/2/2017
AMOUNT	\$**85.28

PAY Eighty-five and 28 / 100 U.S. Dollar

TO THE
 ORDER
 OF
 CITY OF AUSTIN
 P.O. BOX 1088
 Austin, TX 78767
 USA



CHECK IS PRINTED ON SECURITY PAPER WHICH INCLUDES A MICROPRINT BORDER & FLUORESCENT FIBERS

⑆460419⑆ ⑆24302150⑆ 153195061947⑆



B. RUSS HORTON

1100 NORWOOD TOWER | 114 WEST 7TH ST | AUSTIN, TX 78701
512.495.1400 | FAX 512.499.0094 | [REDACTED]

June 7, 2017

Via Hand Delivery

City of Austin – Development Services Department
Development Assistance Center – One Texas Center
505 Barton Springs Road
Austin, Texas 78704

Re: Applications for Sign Permits/Digital Sign Face
The Following Addresses:

- 3405 S Congress
- 7301 Burleson Rd
- 1527 1/2 SH 71 E
- 2355 1/2 SH 71 E
- 9127 1/2 IH 35 N
- 13443 N FM 620
- 13301 1/2 US Hwy 183 N
- 1809 Manor Rd
- 308 1/2 IH 35 N
- 400 1/2 IH 35 N
- 410 W 18th St

Dear Sir or Madam:

I write on behalf of Reagan National Advertising of Austin, Inc. to request that the City issue permits for the installation of digital sign faces on the above listed existing sign structures. Enclosed are the permit applications for these locations, which are being submitted in administratively complete form. Reagan has included a separate check with each application. Each of the eleven checks is in the amount of \$85.28. If the City determines that the enclosed applications are not administratively complete, I request that you notify me immediately of such determination and allow a statutorily compliant opportunity to complete the applications.

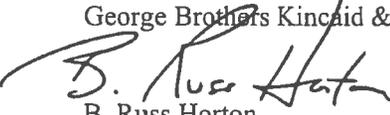
Reagan further asserts, in light the recent authorities of *Reed v. Town of Gilbert, Arizona*, 135 S. Ct. 2218 (2015) and *Auspro Enters, LP v. Texas Dep't. of Transp.*, 506 S.W.3d 688 (Tex. App.—Austin, 2016, pet. filed), that the City review these applications in conformity with the Constitutional constraints precluding the City from limiting my client's rights of free speech and expression.

Reagan asks that the City review and approve these permit applications in a prompt and reasonable manner. If you have any questions or would like to discuss this issue, please call.

GEORGE BROTHERS KINCAID & HORTON, L.L.P.
PAGE 2

Yours sincerely,

George Brothers Kincaid & Horton, L.L.P.



B. Russ Horton

Enclosures



Development Services Department APPLICATION FOR SIGN PERMIT (PLEASE PRINT)

ONLY COMPLETE APPLICATIONS WITH ALL REQUIRED DOCUMENTS WILL BE ACCEPTED

APPLICATION DATE:

CASE NUMBER:

ADDRESS OF SIGN: 1527 1/2 SH 71 E		LEGAL DESCRIPTION TAX PARCEL I.D.# 290556	LOT	BLOCK
SIGN OWNER: Reagan National Advertising of Austin, Inc.		SUBDIVISION:		
SIGN COMPANY: Reagan National Adv.	CONTACT: Doug Lister	PHONE: (512) 926-7740	FAX:	
SIGN COMPANY'S ADDRESS: (ADDRESS/CITY/ST/ZIP) 7301 Burlleson Rd, Austin, Tx 78744		EMAIL: [REDACTED]		
PROPOSED ADVERTISEMENT:		ELEVATION (CIRCLE ONE): <u>NORTH</u> SOUTH EAST WEST		

DESCRIPTION OF WORK TO BE DONE: Conversion to electronically controlled changeable-copy sign

----- WALL SIGN (BUILDING, CANOPY, AWNING) -----

SIGN FACE DIMENSIONS:	TOTAL SIGN FACE AREA OF THIS PERMIT:	TOTAL AREA OF EXISTING SIGNS ON FACADE:
DIMENSIONS OF BUILDING FAÇADE (WIDTH X HEIGHT):	ELECTRIC SIGN: YES/NO	(NOTE: IF YES, ELECTRIC PERMIT IS REQUIRED BEFORE ISSUANCE OF SIGN INSTALLATION PERMIT)

----- FREESTANDING SIGN, ROOF SIGN, PROJECTING SIGN -----

SIGN FACE DIMENSIONS: 14' x 48'	TOTAL SIGN FACE AREA OF THIS PERMIT: 672'	TOTAL HEIGHT OF SIGN: As existing
SETBACK OF SIGN? (DISTANCE FROM SIGN TO PROPERTY LINE): 10'	CLEARANCE ABOVE GRADE: As existing	LINEAR FEET OF STREET FRONTAGE: 362'
IS THIS A PAD SITE? YES/NO:	ROOF SIGN? YES/NO:	ELEC? YES/NO:
REGISTERED BILLBOARD (OFF-PREMISE) SIGN? YES/NO:	ELECTRIC SIGN: YES/NO	
(NOTE: IF YES, ELECTRIC PERMIT IS REQUIRED BEFORE ISSUANCE OF SIGN INSTALLATION PERMIT)		

WILL PROPOSED SIGN BE LOCATED WITHIN A P.U.E.? YES/NO: IF YES, THE HOLDER OF THE PUBLIC EASEMENT MUST BE CONTACTED FOR CLEARANCE

NOTE: SIGNS MUST MAINTAIN HORIZONTAL AND VERTICAL CLEARANCE OF ALL OVERHEAD ELECTRICAL CONDUCTORS IN ACCORDANCE WITH SPECIFICATIONS OF THE NATIONAL ELECTRICAL CODE, LOCAL CODE AMENDMENTS, AND ALL OTHER APPLICABLE LAWS

(SIGNATURES IN THESE BLANKS INDICATE THAT THE PROPERTY OWNER IS AWARE OF THE APPLICATION FOR A SIGN PERMIT AND THAT ALL OF THE ABOVE INFORMATION IS TRUE AND CORRECT)

William [Signature]
SIGNATURE OF SIGN COMPANY REPRESENTATIVE

Darin W. Petrus LIC# 19879
SIGNATURE OF LICENSE ELECTRICIAN (REQUIRED FOR ELECTRICAL SIGNS)
AUTHORIZATION FOR SIGN COMPANY TO PULL ELECTRIC PERMIT? YES/NO

DEPARTMENT USE ONLY

PERMIT FEE:	ELECTRIC PERMIT FEE:	PLAN REVIEW FEE:	DATE:	RECEIPT#:
GRID:	ZONING:	ENGINEERING SEAL REQUIRED? YES/NO	SIGN DISTRICT:	

REMARKS:

<input type="checkbox"/> APPROVE <input type="checkbox"/> DISAPPROVE	ZONING REVIEW ANALYST:	DATE:
UPDATE SUBMITTAL DATE:	ZONING REVIEW ANALYST:	DATE:
<input type="checkbox"/> APPROVE <input type="checkbox"/> DISAPPROVE		

1527 1/2 SH 71 E



Legend

Lot Lines

Streets

Building Footprints

Named Creeks

Lakes and Rivers

Parks

County

Address Points

Lot Line

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. THIS PRODUCT HAS BEEN PRODUCED BY THE CITY OF AUSTIN FOR THE SOLE PURPOSE OF GEOGRAPHIC REFERENCE. NO WARRANTY IS MADE BY THE CITY OF AUSTIN REGARDING SPECIFIC ACCURACY OR COMPLETENESS.



Development Services Department

SIGN PERMIT PROCESS**SUBMITTAL REQUIREMENTS:**

1. A completed "**APPLICATION FOR SIGN PERMIT**", including legal description* (one application for each sign).
*Travis County Appraisal District 834-9317
2. For all **FREESTANDING SIGNS, ROOF SIGNS & PROJECTING SIGNS**:
 - a. Construction drawing of the sign bearing the seal of an architect or engineer licensed by the State of Texas verifying the structural requirements of SECTION 25-10-192(A).
The drawing **MUST** include:
 - 1) HEIGHT of sign
 - 2) DETAILS & DIMENSIONS of all structural and nonstructural members to include sign supports,
 - 3) DETAILS & DIMENSIONS of foundations and footing members, and
 - 4) ADVERTISING AREA of all sign facades
 - b. Complete site drawing **TO SCALE** that **MUST** include:
 - 1) LOCATION of proposed sign and **SETBACK DISTANCES** from sign supports to property lines fronting on a street,
 - 2) LINEAR FEET street frontage dimensions
 - 3) LOCATIONS of all existing **FREESTANDING** signs on the same property,
 - 4) LOCATIONS of **ALL** easements and/or utility lines within twenty feet of the proposed sign location.
3. For all **WALL and AWNING* SIGNS**:
 - a. Construction drawing of the sign. The drawing **MUST** include:
 - 1) DETAILS & DIMENSIONS of structural and nonstructural methods of attachment or anchoring to the building,
 - 2) ADVERTISING AREA of the sign.
 - b. A drawing or photograph of the building façade that **MUST** include:
 - 1) DIMENSIONS of the façade and
 - 2) LOCATIONS and SIZES of all other signs on the building.

*Building permit for awning must be existing before issuance of awning sign
4. **SIGN REVIEW FEE** (*MUST be paid at time of submittal*):
Wall Signs, Freestanding Signs, Roof Signs:
See Commercial Review and Permit Fees at <http://www.austintexas.gov/department/fees>
5. **SIGN PERMIT FEE** (*paid at the time of permit issuance*):
Sign Permit, Electric Permit, Dev. Svcs. Surcharge:
See Commercial Review and Permit Fees at <http://www.austintexas.gov/department/fees>

SIGN PERMIT INFORMATION:

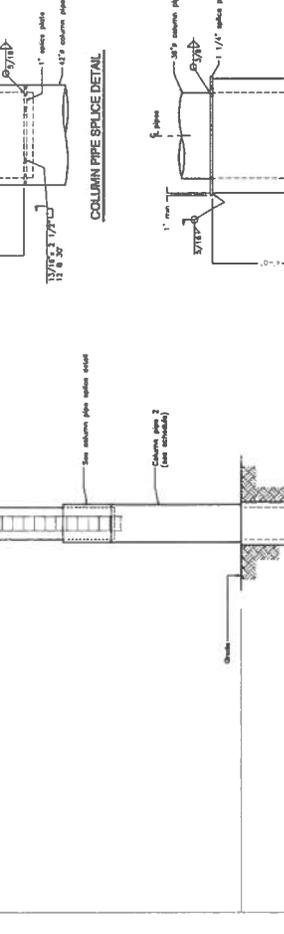
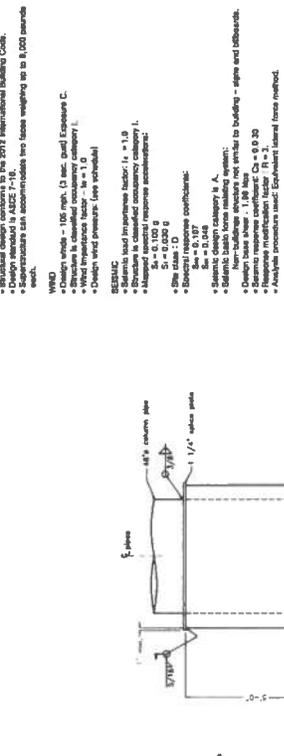
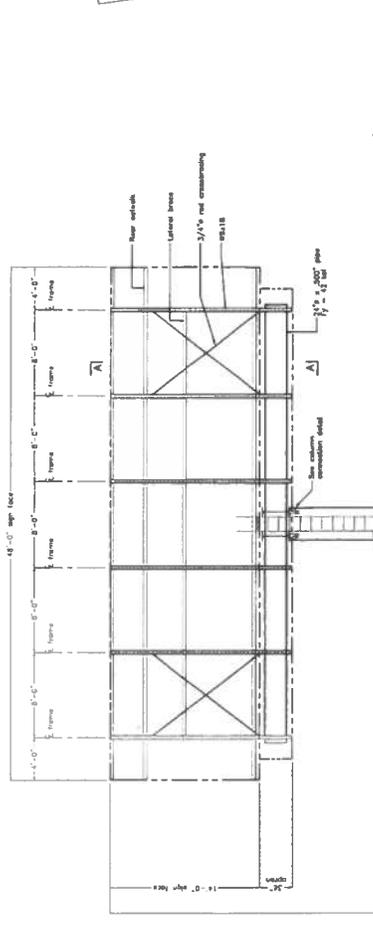
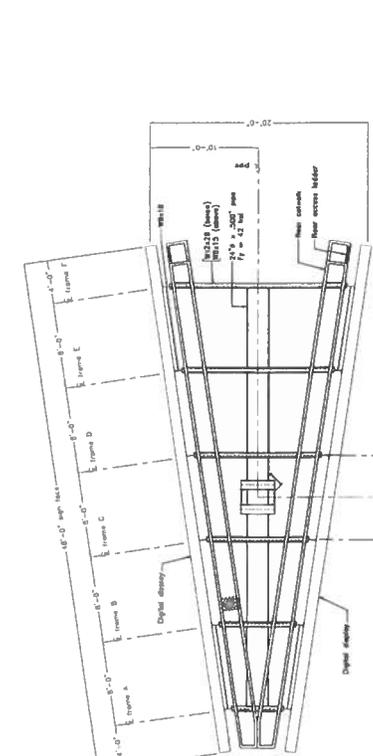
1. Sign permits may only be issued to Outdoor Advertisers registered and insured with the City of Austin, except as noted in LDC Section 25-10-231.
2. Electrical signs must be permitted in accordance with all applicable codes before the structural sign permit can be finalized (*electrical permits are required for connection of electrical signs*).
3. Any electrical sign permit applications must have the signature of the Master Electrician licensed with the City of Austin.



DATE	REVISION
01-14-13	1
02-14-13	2
03-14-13	3
04-14-13	4
05-14-13	5
06-14-13	6
07-14-13	7
08-14-13	8
09-14-13	9
10-14-13	10
11-14-13	11
12-14-13	12

ENGINEER: N. CAD. REV.
 DATE: 01-14-13
 PROJECT: ALAMO OUTDOOR SIGNS
 DRAWING NO.: 1880 GOLF STREET
 SAN ANTONIO, TX 78288

MONOPOLE SIGN STRUCTURE
 14'-0" x 48'-0"
 AUSTIN, TEXAS
 DIGITAL DISPLAY
 CLIENT NO.: 09
 SPEC. NO.: 15-000-103
 DRAWING NO.: 18837
 SHEET: 1 of 2



NOTES

- Design shall conform to the 2012 International Building Code.
- Design shall conform to ASCE 7-10.
- Superstructure shall accommodate live loads weighing to 8,000 pounds.

WIND

- Wind speed - 105 mph (3 sec. gust) Exposure C.
- Structure is classified occupancy category I.
- Design wind pressure - (see schedule)

STEEL

- Structural steel shall conform to ASTM A572 or A575, with grades that conform to the above yield and tensile strength.
- Structural steel plate, roof, joists, and concrete shall conform to ASTM A36.
- Structural steel pipe shall conform to ASTM A513 (except where noted otherwise).
- 180 strength bolts and conform to ASTM A325 (except where noted otherwise).
- High strength A325 bolts shall be installed according to the latest RCSC specifications for the A325 anchor bolts (except where noted otherwise).
- All high strength bolts shall be fully pretensioned (unless noted otherwise).
- Steel shall be primed and painted, except for the embedded portions.
- Steel welding shall be in accordance with AWS standards.
- Steel welding shall be in accordance with the AWS standards and erected according to the latest AWS specifications and approved practices.

FOUNDATION & CONCRETE

- Concrete shall have a 28-day compressive strength of $f'_c = 3000$ p.s.i.
- Minimum steel bar size of the wall profile is an assumed 180 # 2.0 L76.
- Reinforcement shall be in accordance with the schedule and erected according to the latest AWS specifications and approved practices.

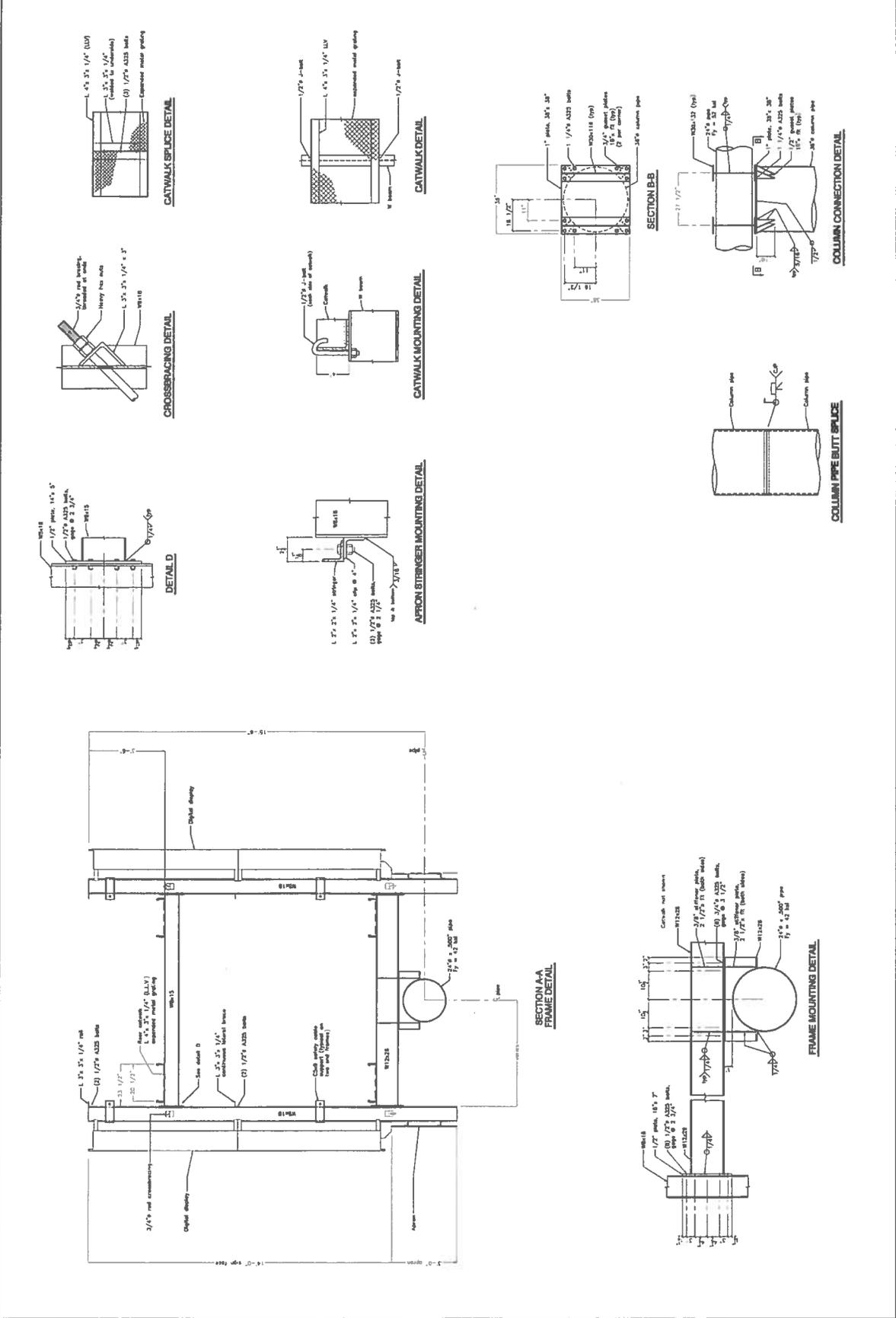
GENERAL

- The contractor shall verify all dimensions and conditions in the field.
- CRG Engineering, Inc. will not be responsible for modifying the schedule/condition of the structure.
- CRG Engineering, Inc. will not be responsible for maintaining the structure.

USE HEIGHTS FROM FINISH FLOOR LEVEL, UNLESS AND REPEAT THE LENGTH OF COLUMN 1 IS REQUIRED TO MEET MINIMUM HEIGHT

Height	Column 1		Column 2		Column 3	
	Length	Perimeter	Length	Perimeter	Length	Perimeter
47'-0"	72.0	36.0	36.0	36.0	36.0	36.0
57'-0"	72.0	36.0	36.0	36.0	36.0	36.0
67'-0"	72.0	36.0	36.0	36.0	36.0	36.0
77'-0"	72.0	36.0	36.0	36.0	36.0	36.0
87'-0"	72.0	36.0	36.0	36.0	36.0	36.0
97'-0"	72.0	36.0	36.0	36.0	36.0	36.0
107'-0"	72.0	36.0	36.0	36.0	36.0	36.0

 <p>GRC ENGINEERING, INC. 10000 GOLF STREET SUITE 100 AUSTIN, TEXAS 78758</p>	 <p>GRC ENGINEERING, INC. Engineering Firm F 11804</p>	<p>DATE: 11-17-17 BY: [Signature] CHECKED: [Signature]</p>	<p>ALAMO OUTDOOR SIGNS 18900 GOLF STREET SAN ANTONIO, TX 78286</p>	<p>MONOPOLE SIGN STRUCTURE V DIGITAL DISPLAY AUSTIN, TEXAS</p>	<p>CURT NO. 00 REV NO. 13-001-128 DRAWING NO. 10637 SHEET 2 of 2</p>
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J01/110

VENDOR: REMIT TO:	VC121 CITY OF AUSTIN	CHECK: COMMENT:	0000460424	DATE:	6/2/2017
20170601-E	6/1/2017	0000076269	DIGITAL PERMIT APPLICATION	85.28	0.00
				85.28	0.00
				85.28	85.28

THIS CHECK IS VOID WITHOUT A BLUE & RED BACKGROUND AND A WATERMARK. HOLD UP TO THE LIGHT TO VERIFY.

Reagan National Advertising of Austin, Inc.
 1775 North Warm Springs Road
 Salt Lake City, Utah 84116

usbank.
 US Bank
 97-215/1243

0000460424

DATE	6/2/2017
AMOUNT	\$**85.28

PAY Eighty-five and 28 / 100 U.S. Dollar

TO THE
 ORDER
 OF

CITY OF AUSTIN
 P.O. BOX 1088
 Austin, TX 78767
 USA



CHECK IS PRINTED ON SECURITY PAPER WHICH INCLUDES A MICROPRINT BORDER & FLUORESCENT FIBERS

⑈460424⑈ ⑆24302150⑆ 153195061947⑈



B. RUSS HORTON

1100 NORWOOD TOWER | 114 WEST 7TH ST. | AUSTIN, TX 78701
512.495.1400 | FAX 512.499.0094 | [REDACTED]

June 7, 2017

Via Hand Delivery

City of Austin – Development Services Department
Development Assistance Center – One Texas Center
505 Barton Springs Road
Austin, Texas 78704

Re: Applications for Sign Permits/Digital Sign Face
The Following Addresses:

3405 S Congress
7301 Burleson Rd
1527 1/2 SH 71 E
2355 1/2 SH 71 E
9127 1/2 IH 35 N
13443 N FM 620
13301 1/2 US Hwy 183 N
1809 Manor Rd
308 1/2 IH 35 N
400 1/2 IH 35 N
410 W 18th St

Dear Sir or Madam:

I write on behalf of Reagan National Advertising of Austin, Inc. to request that the City issue permits for the installation of digital sign faces on the above listed existing sign structures. Enclosed are the permit applications for these locations, which are being submitted in administratively complete form. Reagan has included a separate check with each application. Each of the eleven checks is in the amount of \$85.28. If the City determines that the enclosed applications are not administratively complete, I request that you notify me immediately of such determination and allow a statutorily compliant opportunity to complete the applications.

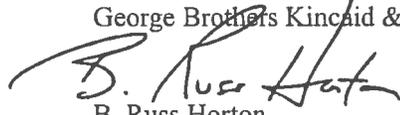
Reagan further asserts, in light the recent authorities of *Reed v. Town of Gilbert, Arizona*, 135 S. Ct. 2218 (2015) and *Auspro Enters, LP v. Texas Dep't. of Transp.*, 506 S.W.3d 688 (Tex. App.—Austin, 2016, pet. filed), that the City review these applications in conformity with the Constitutional constraints precluding the City from limiting my client's rights of free speech and expression.

Reagan asks that the City review and approve these permit applications in a prompt and reasonable manner. If you have any questions or would like to discuss this issue, please call.

GEORGE BROTHERS KINCAID & HORTON, L.L.P.
PAGE 2

Yours sincerely,

George Brothers Kincaid & Horton, L.L.P.


B. Russ Horton

Enclosures



Development Services Department
APPLICATION FOR SIGN PERMIT
(PLEASE PRINT)

ONLY COMPLETE APPLICATIONS WITH ALL REQUIRED DOCUMENTS WILL BE ACCEPTED

APPLICATION DATE:

CASE NUMBER:

ADDRESS OF SIGN: 1809 Manor Rd		LEGAL DESCRIPTION TAX PARCEL I.D.#: 202207	LOT 8	BLOCK 13
SIGN OWNER: Reagan National Advertising of Austin, Inc.		SUBDIVISION:		
SIGN COMPANY: Reagan National Adv.	CONTACT: Doug Lister	PHONE: (512) 926-7740	FAX:	
SIGN COMPANY'S ADDRESS: (ADDRESS/CITY/ST/ZIP) 7301 Burleson Rd, Austin, Tx 78744		EMAIL:		
PROPOSED ADVERTISEMENT:		ELEVATION (CIRCLE ONE): NORTH <u>SOUTH</u> EAST WEST		

DESCRIPTION OF WORK TO BE DONE: Conversion to electronically controlled changeable-copy sign

----- WALL SIGN (BUILDING, CANOPY, AWNING) -----

SIGN FACE DIMENSIONS:	TOTAL SIGN FACE AREA OF THIS PERMIT:	TOTAL AREA OF EXISTING SIGNS ON FACADE:
DIMENSIONS OF BUILDING FAÇADE (WIDTH X HEIGHT):	ELECTRIC SIGN: YES/NO	(NOTE: IF YES, ELECTRIC PERMIT IS REQUIRED BEFORE ISSUANCE OF SIGN INSTALLATION PERMIT)

----- FREESTANDING SIGN, ROOF SIGN, PROJECTING SIGN -----

SIGN FACE DIMENSIONS: 12' x 25'	TOTAL SIGN FACE AREA OF THIS PERMIT: 300'	TOTAL HEIGHT OF SIGN: As existing
SETBACK OF SIGN? (DISTANCE FROM SIGN TO PROPERTY LINE): 17'	CLEARANCE ABOVE GRADE: As existing	LINEAR FEET OF STREET FRONTAGE: 54'
IS THIS A PAD SITE? YES/NO:	ROOF SIGN? YES/NO:	ELEC? YES/NO:
REGISTERED BILLBOARD (OFF-PREMISE) SIGN? YES/NO:	ELECTRIC SIGN: YES/NO	

WILL PROPOSED SIGN BE LOCATED WITHIN A P.U.E.? YES/NO: IF YES, THE HOLDER OF THE PUBLIC EASEMENT MUST BE CONTACTED FOR CLEARANCE

NOTE: SIGNS MUST MAINTAIN HORIZONTAL AND VERTICAL CLEARANCE OF ALL OVERHEAD ELECTRICAL CONDUCTORS IN ACCORDANCE WITH SPECIFICATIONS OF THE NATIONAL ELECTRICAL CODE, LOCAL CODE AMENDMENTS, AND ALL OTHER APPLICABLE LAWS

(SIGNATURES IN THESE BLANKS INDICATE THAT THE PROPERTY OWNER IS AWARE OF THE APPLICATION FOR A SIGN PERMIT AND THAT ALL OF THE ABOVE INFORMATION IS TRUE AND CORRECT)

William Reagan II
 SIGNATURE OF SIGN COMPANY REPRESENTATIVE

Dan W. Peter Lic# 19879
 SIGNATURE OF LICENSE ELECTRICIAN (REQUIRED FOR ELECTRICAL SIGNS)
 AUTHORIZATION FOR SIGN COMPANY TO PULL ELECTRIC PERMIT? YES/NO

DEPARTMENT USE ONLY

PERMIT FEE:	ELECTRIC PERMIT FEE:	PLAN REVIEW FEE:	DATE:	RECEIPT#
GRID:	ZONING:	ENGINEERING SEAL REQUIRED? YES/NO	SIGN DISTRICT:	

REMARKS:

<input type="checkbox"/> APPROVE <input type="checkbox"/> DISAPPROVE	ZONING REVIEW ANALYST:	DATE:
UPDATE SUBMITTAL DATE:	ZONING REVIEW ANALYST:	DATE:
<input type="checkbox"/> APPROVE <input type="checkbox"/> DISAPPROVE		



Development Services Department

SIGN PERMIT PROCESS**SUBMITTAL REQUIREMENTS:**

1. A completed "APPLICATION FOR SIGN PERMIT", including legal description* (one application for each sign).
*Travis County Appraisal District 834-9317
2. For all **FREESTANDING SIGNS, ROOF SIGNS & PROJECTING SIGNS:**
 - a. Construction drawing of the sign bearing the seal of an architect or engineer licensed by the State of Texas verifying the structural requirements of SECTION 25-10-192(A).
The drawing **MUST** include:
 - 1) HEIGHT of sign
 - 2) DETAILS & DIMENSIONS of all structural and nonstructural members to include sign supports,
 - 3) DETAILS & DIMENSIONS of foundations and footing members, and
 - 4) ADVERTISING AREA of all sign facades
 - b. Complete site drawing TO SCALE that **MUST** include:
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 - 3) LOCATIONS of all existing FREESTANDING signs on the same property,
 - 4) LOCATIONS of ALL easements and/or utility lines within twenty feet of the proposed sign location.
3. For all **WALL and AWNING* SIGNS:**
 - a. Construction drawing of the sign. The drawing **MUST** include:
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 - b. A drawing or photograph of the building façade that **MUST** include:
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 - 2) LOCATIONS and SIZES of all other signs on the building.

*Building permit for awning must be existing before issuance of awning sign
4. **SIGN REVIEW FEE** (*MUST be paid at time of submittal*):
Wall Signs, Freestanding Signs, Roof Signs:
See Commercial Review and Permit Fees at <http://www.austintexas.gov/department/fees>
5. **SIGN PERMIT FEE** (*paid at the time of permit issuance*):
Sign Permit, Electric Permit, Dev. Svcs. Surcharge:
See Commercial Review and Permit Fees at <http://www.austintexas.gov/department/fees>

SIGN PERMIT INFORMATION:

1. Sign permits may only be issued to Outdoor Advertisers registered and insured with the City of Austin, except as noted in LDC Section 25-10-231.
2. Electrical signs must be permitted in accordance with all applicable codes before the structural sign permit can be finalized (*electrical permits are required for connection of electrical signs*).
3. Any electrical sign permit applications must have the signature of the Master Electrician licensed with the City of Austin.



Google Earth

feet
meters

300 100

A scale bar showing 300 feet and 100 meters. A north arrow points towards the top of the page.

J01/18

VENDOR: REMIT TO:	VCI21 CITY OF AUSTIN	CHECK: COMMENT:	0000460420	DATE:	6/2/2017
20170601-G	6/1/2017	0000076271	DIGITAL PERMIT APPLICATION	85.28	0.00
				85.28	0.00
				85.28	85.28

THIS CHECK IS VOID WITHOUT A BLUE & RED BACKGROUND AND A WATERMARK - HOLD UP TO THE LIGHT TO VERIFY

Reagan National Advertising of Austin, Inc.
 1775 North Warm Springs Road
 Salt Lake City, Utah 84116

USbank.
 US Bank
 97-215/1243

0000460420

DATE	6/2/2017
AMOUNT	\$**85.28

PAY Eighty-five and 28 / 100 U.S. Dollar

TO THE
 ORDER
 OF
 CITY OF AUSTIN
 P.O. BOX 1088
 Austin, TX 78767
 USA



CHECK IS PRINTED ON SECURITY PAPER WHICH INCLUDES A MICROPRINT BORDER & FLUORESCENT FIBERS

⑈160420⑈ ⑆124302150⑆ 153195061947⑈



B. RUSS HORTON

1100 NORWOOD TOWER | 114 WEST 7TH ST | AUSTIN, TX 78701
512.495.1400 | FAX 512.499.0094 | [REDACTED]

June 7, 2017

Via Hand Delivery

City of Austin – Development Services Department
Development Assistance Center – One Texas Center
505 Barton Springs Road
Austin, Texas 78704

Re: Applications for Sign Permits/Digital Sign Face
The Following Addresses:

- 3405 S Congress
- 7301 Burleson Rd
- 1527 1/2 SH 71 E
- 2355 1/2 SH 71 E
- 9127 1/2 IH 35 N
- 13443 N FM 620
- 13301 1/2 US Hwy 183 N
- 1809 Manor Rd
- 308 1/2 IH 35 N
- 400 1/2 IH 35 N
- 410 W 18th St

Dear Sir or Madam:

I write on behalf of Reagan National Advertising of Austin, Inc. to request that the City issue permits for the installation of digital sign faces on the above listed existing sign structures. Enclosed are the permit applications for these locations, which are being submitted in administratively complete form. Reagan has included a separate check with each application. Each of the eleven checks is in the amount of \$85.28. If the City determines that the enclosed applications are not administratively complete, I request that you notify me immediately of such determination and allow a statutorily compliant opportunity to complete the applications.

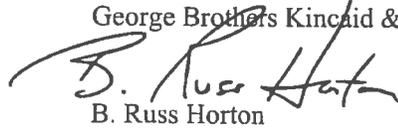
Reagan further asserts, in light the recent authorities of *Reed v. Town of Gilbert, Arizona*, 135 S. Ct. 2218 (2015) and *Auspro Enters, LP v. Texas Dep't. of Transp.*, 506 S.W.3d 688 (Tex. App.—Austin, 2016, pet. filed), that the City review these applications in conformity with the Constitutional constraints precluding the City from limiting my client's rights of free speech and expression.

Reagan asks that the City review and approve these permit applications in a prompt and reasonable manner. If you have any questions or would like to discuss this issue, please call.

GEORGE BROTHERS KINCAID & HORTON, L.L.P.
PAGE 2

Yours sincerely,

George Brothers Kincaid & Horton, L.L.P.



B. Russ Horton

Enclosures

 <p>Development Services Department APPLICATION FOR SIGN PERMIT (PLEASE PRINT) ONLY COMPLETE APPLICATIONS WITH ALL REQUIRED DOCUMENTS WILL BE ACCEPTED</p>	APPLICATION DATE:		
	CASE NUMBER:		
ADDRESS OF SIGN: 2355 1/2 SH 71 E	LEGAL DESCRIPTION TAX PARCEL ID# 291961	LOT 1	BLOCK
SIGN OWNER: Reagan National Advertising of Austin, Inc.	SUBDIVISION:		
SIGN COMPANY: Reagan National Adv.	CONTACT: Doug Lister	PHONE: (512) 926-7740	FAX:
SIGN COMPANY'S ADDRESS: (ADDRESS/CITY/ST/ZIP) 7301 Burseson Rd, Austin, Tx 78744		EMAIL:	
PROPOSED ADVERTISEMENT:	ELEVATION (CIRCLE ONE): NORTH SOUTH EAST WEST		
DESCRIPTION OF WORK TO BE DONE: Conversion to electronically controlled changeable-copy sign			
----- WALL SIGN (BUILDING, CANOPY, AWNING) -----			
SIGN FACE DIMENSIONS:	TOTAL SIGN FACE AREA OF THIS PERMIT:	TOTAL AREA OF EXISTING SIGNS ON FACADE:	
DIMENSIONS OF BUILDING FAÇADE (WIDTH X HEIGHT):	ELECTRIC SIGN: YES/NO (NOTE: IF YES, ELECTRIC PERMIT IS REQUIRED BEFORE ISSUANCE OF SIGN INSTALLATION PERMIT)		
----- FREESTANDING SIGN, ROOF SIGN, PROJECTING SIGN -----			
SIGN FACE DIMENSIONS: 14' x 48'	TOTAL SIGN FACE AREA OF THIS PERMIT: 672'	TOTAL HEIGHT OF SIGN: As existing	
SETBACK OF SIGN? (DISTANCE FROM SIGN TO PROPERTY LINE): 31'	CLEARANCE ABOVE GRADE: As existing	LINEAR FEET OF STREET FRONTAGE: 120'	NUMBER OF OTHER FREESTANDING SIGNS ON THIS PROPERTY: 1
IS THIS A PAD SITE? YES/NO:	ROOF SIGN? YES/NO	ELEC? YES/NO	SIZE OF EACH SIGN SUPPORT? (POLE, COLUMN, ETC.): 48"
REGISTERED BILLBOARD (OFF-PREMISE) SIGN? YES/NO	ELECTRIC SIGN: YES/NO (NOTE: IF YES, ELECTRIC PERMIT IS REQUIRED BEFORE ISSUANCE OF SIGN INSTALLATION PERMIT)		
WILL PROPOSED SIGN BE LOCATED WITHIN A P.U.E.? YES/NO IF YES, THE HOLDER OF THE PUBLIC EASEMENT MUST BE CONTACTED FOR CLEARANCE			
NOTE: SIGNS MUST MAINTAIN HORIZONTAL AND VERTICAL CLEARANCE OF ALL OVERHEAD ELECTRICAL CONDUCTORS IN ACCORDANCE WITH SPECIFICATIONS OF THE NATIONAL ELECTRICAL CODE, LOCAL CODE AMENDMENTS, AND ALL OTHER APPLICABLE LAWS			
(SIGNATURES IN THESE BLANKS INDICATE THAT THE PROPERTY OWNER IS AWARE OF THE APPLICATION FOR A SIGN PERMIT AND THAT ALL OF THE ABOVE INFORMATION IS TRUE AND CORRECT)			
 SIGNATURE OF SIGN COMPANY REPRESENTATIVE		 LIC# 19879 SIGNATURE OF LICENSE ELECTRICIAN (REQUIRED FOR ELECTRICAL SIGNS) AUTHORIZATION FOR SIGN COMPANY TO PULL ELECTRIC PERMIT? YES/NO	
DEPARTMENT USE ONLY			
PERMIT FEE:	ELECTRIC PERMIT FEE:	PLAN REVIEW FEE:	DATE: RECEIPT#
GRID:	ZONING:	ENGINEERING SEAL REQUIRED? YES/NO	SIGN DISTRICT:
REMARKS:			
<input type="checkbox"/> APPROVE <input type="checkbox"/> DISAPPROVE		ZONING REVIEW ANALYST:	DATE:
UPDATE SUBMITTAL DATE:		ZONING REVIEW ANALYST:	DATE:
<input type="checkbox"/> APPROVE <input type="checkbox"/> DISAPPROVE			

2355 1/2 SH 71 E

Legend

-  Lot Lines
-  Streets
-  Building Footprints
-  Named Creeks
-  Lakes and Rivers
-  Parks
-  County
-  Address Points
-  Lot Line



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. THIS PRODUCT HAS BEEN PRODUCED BY THE CITY OF AUSTIN FOR THE SOLE PURPOSE OF GEOGRAPHIC REFERENCE. NO WARRANTY IS MADE BY THE CITY OF AUSTIN REGARDING SPECIFIC ACCURACY OR COMPLETENESS.



Development Services Department

SIGN PERMIT PROCESS**SUBMITTAL REQUIREMENTS:**

1. A completed "APPLICATION FOR SIGN PERMIT", including legal description* (one application for each sign).
*Travis County Appraisal District 834-9317
2. For all **FREESTANDING SIGNS, ROOF SIGNS & PROJECTING SIGNS:**
 - a. Construction drawing of the sign bearing the seal of an architect or engineer licensed by the State of Texas verifying the structural requirements of SECTION 25-10-192(A).
The drawing **MUST** include:
 - 1) HEIGHT of sign
 - 2) DETAILS & DIMENSIONS of all structural and nonstructural members to include sign supports,
 - 3) DETAILS & DIMENSIONS of foundations and footing members, and
 - 4) ADVERTISING AREA of all sign facades
 - b. Complete site drawing **TO SCALE** that **MUST** include:
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 - 3) LOCATIONS of all existing **FREESTANDING** signs on the same property,
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3. For all **WALL and AWNING* SIGNS:**
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*Building permit for awning must be existing before issuance of awning sign
4. **SIGN REVIEW FEE** (*MUST be paid at time of submittal*):
Wall Signs, Freestanding Signs, Roof Signs:
See Commercial Review and Permit Fees at <http://www.austintexas.gov/department/fees>
5. **SIGN PERMIT FEE** (*paid at the time of permit issuance*):
Sign Permit, Electric Permit, Dev. Svcs. Surcharge:
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SIGN PERMIT INFORMATION:

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J01/126

VENDOR: REMIT TO:	VC121 CITY OF AUSTIN	CHECK: COMMENT:	0000460417	DATE:	6/2/2017
20170601-A	6/1/2017	DIGITAL PERMIT APPLICATION	0000076251	85.28	85.28
				0.00	85.28

THIS CHECK IS VOID WITHOUT A BLUE & RED BACKGROUND AND A WATERMARK - HOLD UP TO THE LIGHT TO VERIFY

USbank
US Bank
97-215/1243

0000460417

DATE	6/2/2017
AMOUNT	\$**85.28

[Signature]

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Reagan National Advertising of Austin, Inc.
1775 North Warm Springs Road
Salt Lake City, Utah 84116

PAY Eighty-five and 28 / 100 U.S. Dollar

TO THE
ORDER
OF

CITY OF AUSTIN
P.O. BOX 1088
Austin, TX 78767
USA

⑆14604⑆7⑆⑆⑆124302⑆50⑆⑆⑆153195061947⑆⑆



B. RUSS HORTON

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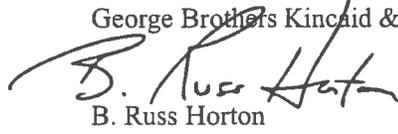
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GEORGE BROTHERS KINCAID & HORTON, L.L.P.
PAGE 2

Yours sincerely,

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Enclosures



Development Services Department APPLICATION FOR SIGN PERMIT (PLEASE PRINT)

ONLY COMPLETE APPLICATIONS WITH ALL REQUIRED DOCUMENTS WILL BE ACCEPTED

APPLICATION DATE:

CASE NUMBER:

ADDRESS OF SIGN: 3405 S Congress Ave		LEGAL DESCRIPTION TAX PARCEL I.D.#: 310855	LOT: 1	BLOCK:
SIGN OWNER: Reagan National Advertising of Austin, Inc.		SUBDIVISION:		
SIGN COMPANY: Reagan National Adv.	CONTACT: Doug Lister	PHONE: (512) 926-7740	FAX:	
SIGN COMPANY'S ADDRESS: (ADDRESS/CITY/ST/ZIP) 7301 Burleson Rd, Austin, Tx 78744		EMAIL:		
PROPOSED ADVERTISEMENT:		ELEVATION (CIRCLE ONE): NORTH SOUTH <u>EAST</u> WEST		

DESCRIPTION OF WORK TO BE DONE: Conversion to electronically controlled changeable-copy sign

----- WALL SIGN (BUILDING, CANOPY, AWNING) -----

SIGN FACE DIMENSIONS:	TOTAL SIGN FACE AREA OF THIS PERMIT:	TOTAL AREA OF EXISTING SIGNS ON FACADE:
DIMENSIONS OF BUILDING FAÇADE (WIDTH X HEIGHT):	ELECTRIC SIGN: YES/NO	(NOTE: IF YES, ELECTRIC PERMIT IS REQUIRED BEFORE ISSUANCE OF SIGN INSTALLATION PERMIT)

----- FREESTANDING SIGN, ROOF SIGN, PROJECTING SIGN -----

SIGN FACE DIMENSIONS: 12' x 25'	TOTAL SIGN FACE AREA OF THIS PERMIT: 300'	TOTAL HEIGHT OF SIGN: As existing
SETBACK OF SIGN? (DISTANCE FROM SIGN TO PROPERTY LINE): 15'	CLEARANCE ABOVE GRADE: As existing	LINEAR FEET OF STREET FRONTAGE: 180'
IS THIS A PAD SITE? YES/NO:	ROOF SIGN? YES/NO:	ELEC? YES NO
REGISTERED BILLBOARD (OFF-PREMISE) SIGN? YES/NO:	ELECTRIC SIGN: YES/NO	(NOTE: IF YES, ELECTRIC PERMIT IS REQUIRED BEFORE ISSUANCE OF SIGN INSTALLATION PERMIT)

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William R. [Signature]
SIGNATURE OF SIGN COMPANY REPRESENTATIVE

Dennis W. Petru LIC# 19879
SIGNATURE OF LICENSE ELECTRICIAN (REQUIRED FOR ELECTRICAL SIGNS)
AUTHORIZATION FOR SIGN COMPANY TO PULL ELECTRIC PERMIT? YES/NO

DEPARTMENT USE ONLY

PERMIT FEE:	ELECTRIC PERMIT FEE:	PLAN REVIEW FEE:	DATE:	RECEIPT#
GRID:	ZONING:	ENGINEERING SEAL REQUIRED? YES/NO	SIGN DISTRICT:	

REMARKS:

<input type="checkbox"/> APPROVE <input type="checkbox"/> DISAPPROVE	ZONING REVIEW ANALYST:	DATE:
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Development Services Department

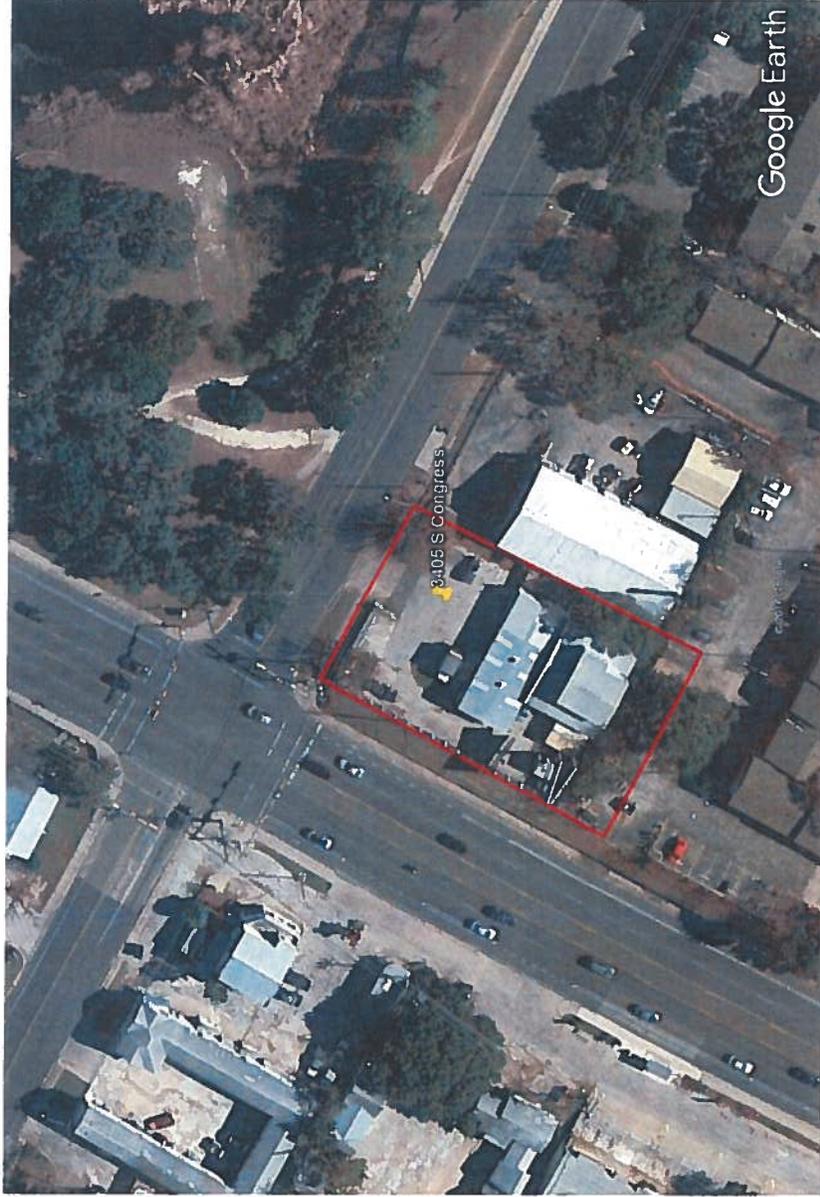
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Google Earth

feet
meters

100 400



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20170601-D	6/1/2017	0000076268	DIGITAL PERMIT APPLICATION	85.28	0.00
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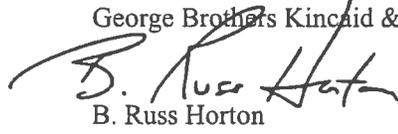
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Enclosures



Development Services Department APPLICATION FOR SIGN PERMIT (PLEASE PRINT)

ONLY COMPLETE APPLICATIONS WITH ALL REQUIRED DOCUMENTS WILL BE ACCEPTED

APPLICATION DATE:

CASE NUMBER:

ADDRESS OF SIGN: **7301 Burleson Rd** LEGAL DESCRIPTION TAX PARCEL I.D.#: **295750** LOT **2** BLOCK

SIGN OWNER: **Reagan National Advertising of Austin, Inc.** SUBDIVISION:

SIGN COMPANY: **Reagan National Adv.** CONTACT: **Doug Lister** PHONE: **(512) 926-7740** FAX:

SIGN COMPANY'S ADDRESS: (ADDRESS/CITY/ST/ZIP) **7301 Burleson Rd, Austin, Tx 78744** EMAIL:

PROPOSED ADVERTISEMENT: ELEVATION (CIRCLE ONE): NORTH SOUTH EAST WEST

DESCRIPTION OF WORK TO BE DONE: **Conversion to electronically controlled changeable-copy sign**

----- **WALL SIGN (BUILDING, CANOPY, AWNING)** -----

SIGN FACE DIMENSIONS: TOTAL SIGN FACE AREA OF THIS PERMIT: TOTAL AREA OF EXISTING SIGNS ON FACADE:

DIMENSIONS OF BUILDING FAÇADE (WIDTH X HEIGHT): ELECTRIC SIGN: YES/NO
(NOTE: IF YES, ELECTRIC PERMIT IS REQUIRED BEFORE ISSUANCE OF SIGN INSTALLATION PERMIT)

----- **FREESTANDING SIGN, ROOF SIGN, PROJECTING SIGN** -----

SIGN FACE DIMENSIONS: **14' x 48'** TOTAL SIGN FACE AREA OF THIS PERMIT: **672'** TOTAL HEIGHT OF SIGN: **As existing**

SETBACK OF SIGN? (DISTANCE FROM SIGN TO PROPERTY LINE): **48'** CLEARANCE ABOVE GRADE: **As existing** LINEAR FEET OF STREET FRONTAGE: **157'** NUMBER OF OTHER FREESTANDING SIGNS ON THIS PROPERTY: **0**

IS THIS A PAD SITE? YES/NO ROOF SIGN? YES/NO ELEC? YES/NO SIZE OF EACH SIGN SUPPORT? (POLE, COLUMN, ETC.): **36"**

REGISTERED BILLBOARD (OFF-PREMISE) SIGN? YES/NO ELECTRIC SIGN: YES/NO
(NOTE: IF YES, ELECTRIC PERMIT IS REQUIRED BEFORE ISSUANCE OF SIGN INSTALLATION PERMIT)

WILL PROPOSED SIGN BE LOCATED WITHIN A P.U.E.? YES/NO: IF YES, THE HOLDER OF THE PUBLIC EASEMENT MUST BE CONTACTED FOR CLEARANCE

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SIGNATURE OF SIGN COMPANY REPRESENTATIVE

Darin W. Petru LIC# **19879**
SIGNATURE OF LICENSE ELECTRICIAN (REQUIRED FOR ELECTRICAL SIGNS)
AUTHORIZATION FOR SIGN COMPANY TO PULL ELECTRIC PERMIT? YES/NO

DEPARTMENT USE ONLY

PERMIT FEE: ELECTRIC PERMIT FEE: PLAN REVIEW FEE: DATE: RECEIPT#

GRID: ZONING: ENGINEERING SEAL REQUIRED? YES/NO SIGN DISTRICT:

REMARKS:

APPROVE DISAPPROVE ZONING REVIEW ANALYST: DATE

UPDATE SUBMITTAL DATE: ZONING REVIEW ANALYST: DATE

APPROVE DISAPPROVE



Development Services Department

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3. Any electrical sign permit applications must have the signature of the Master Electrician licensed with the City of Austin.

7301 BURLESON RD



Legend

- Lot Lines
- Streets
- Building Footprints
- Named Creeks
- Lakes and Rivers
- Parks
- County
- Address Points
- Lot Line
- Easement Lines
- Easement Annotation

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. THIS PRODUCT HAS BEEN PRODUCED BY THE CITY OF AUSTIN FOR THE SOLE PURPOSE OF GEOGRAPHIC REFERENCE. NO WARRANTY IS MADE BY THE CITY OF AUSTIN REGARDING SPECIFIC ACCURACY OR COMPLETENESS.



OGC Engineering, Inc.
1886 GOLL STREET
SAN ANTONIO, TX 78266
Tel: 214-343-1111

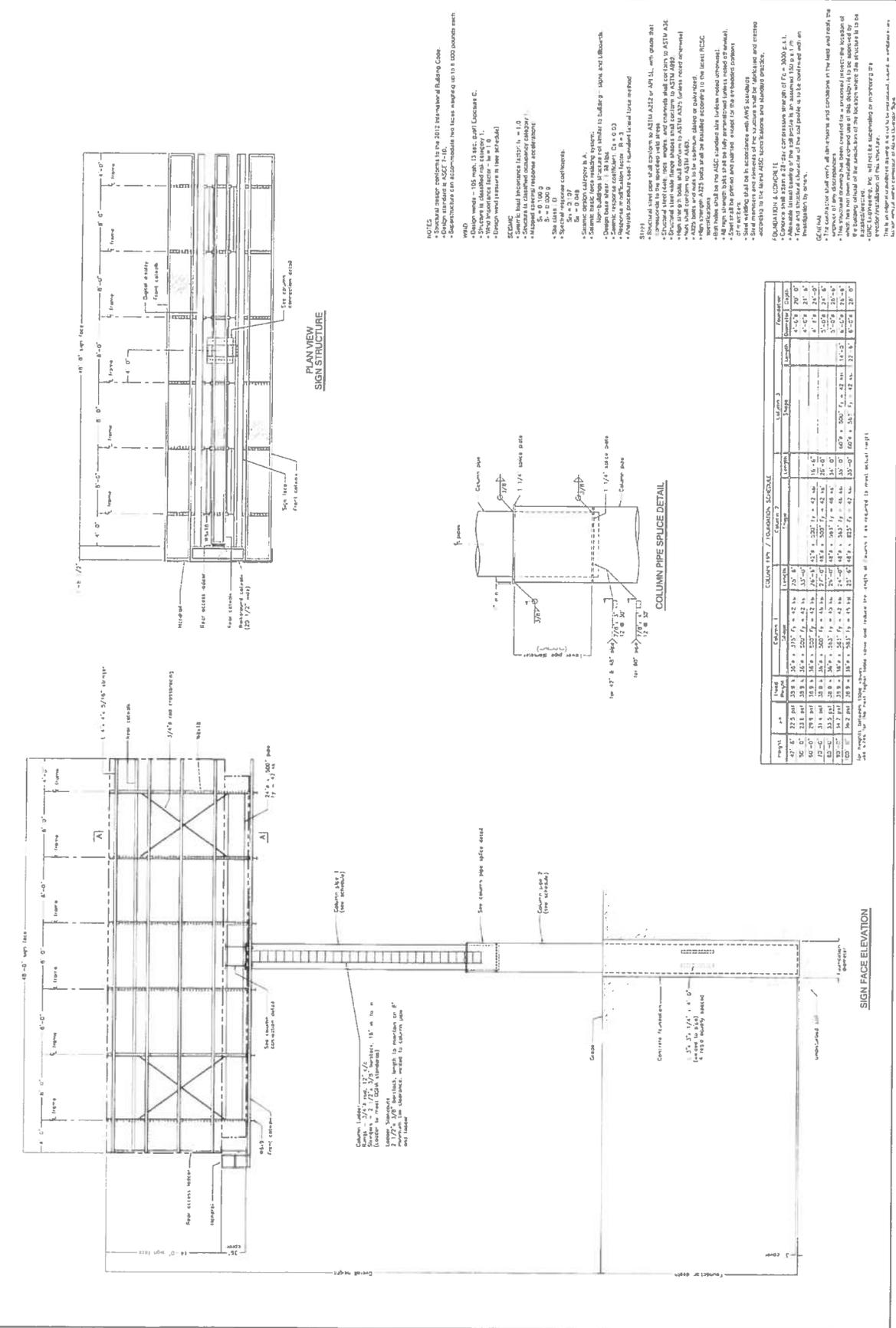


DATE: 11/11/11
BY: [Signature]
CHECKED BY: [Signature]
SCALE: AS SHOWN
SHEET NO. 1 OF 2

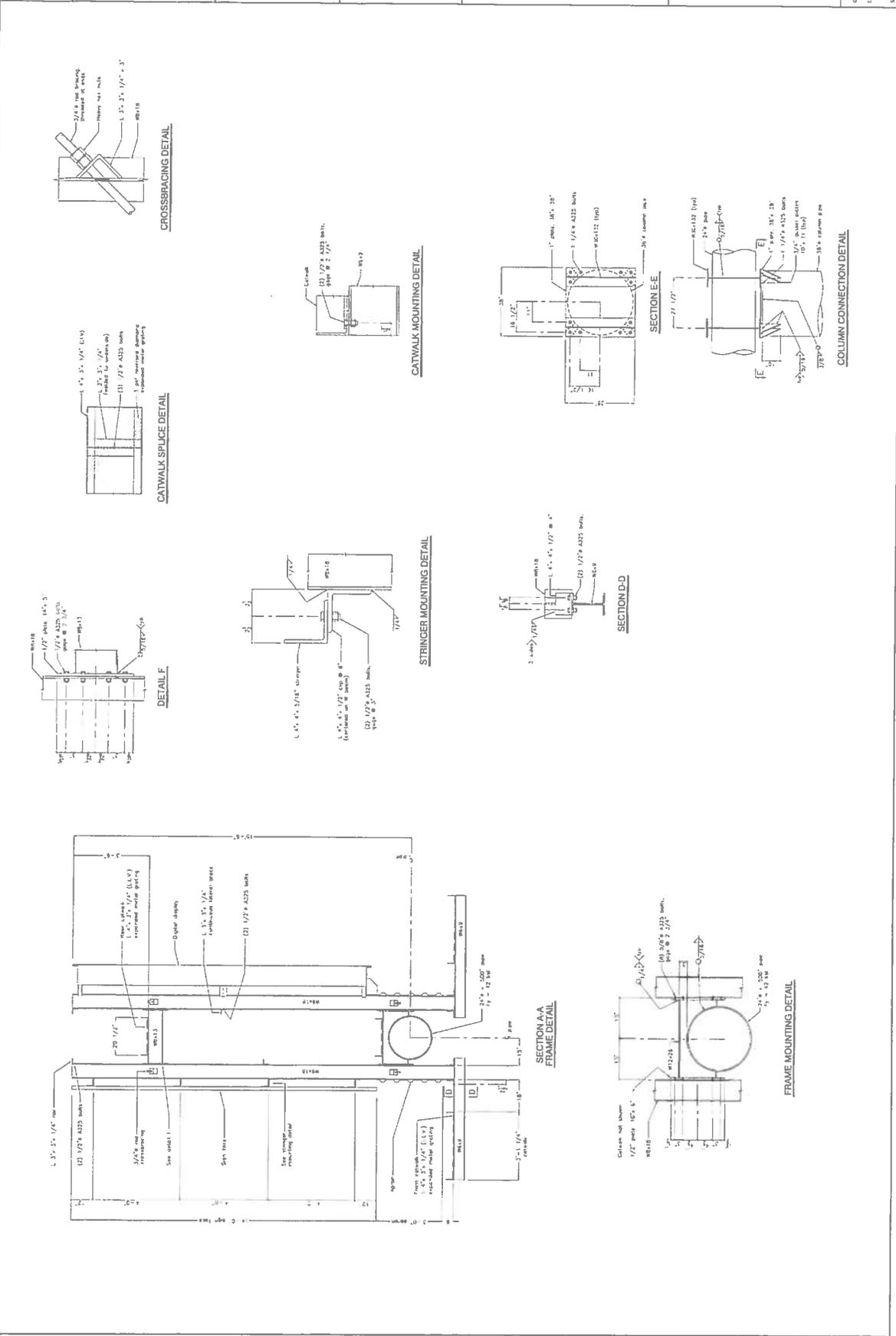
ALAMO OUTDOOR SIGNS
1886 GOLL STREET
SAN ANTONIO, TX 78266

MONOPOLE SIGN STRUCTURE
CENTREPOINT BACK TO BACK
DIGITAL DISPLAY
AUSTIN, TEXAS

14'-0" x 48'-0"
MONOPOLE SIGN STRUCTURE
CENTREPOINT BACK TO BACK
DIGITAL DISPLAY
AUSTIN, TEXAS



<p>GRC ENGINEERING, INC. 17134 LANTANA BLVD SUITE 100 AUSTIN, TEXAS 78758</p>	<p>14'-0" x 48'-0" MONPOLE SIGN STRUCTURE CENTERMOUNT BACK TO BACK DIGITAL DISPLAY AUSTIN, TEXAS</p>	<p>1880 GOLF STREET SAN ANTONIO, TX 78288</p>	<p>DATE: 11/11/11 DRAWN BY: [redacted] CHECKED BY: [redacted] APPROVED BY: [redacted]</p>	<p>Sheet 2 of 2</p>
				<p>17134</p>



J01/142

VENDOR: REMIT TO:	VC121 CITY OF AUSTIN	CHECK: COMMENT:	0000460421	DATE:	6/2/2017
20170601-H	6/1/2017	0000076272	DIGITAL PERMIT APPLICATION	85.28	85.28
				0.00	85.28
				0.00	85.28

THIS CHECK IS VOID WITHOUT A BLUE 3, RED BACKGROUND AND A WATERMARK. HOLD UP TO THE LIGHT TO VERIFY.

Reagan National Advertising of Austin, Inc.
 1775 North Warm Springs Road
 Salt Lake City, Utah 84116

usbank.
 US Bank
 97-215/1243

0000460421

DATE	6/2/2017
AMOUNT	\$**85.28

PAY Eighty-five and 28 / 100 U.S. Dollar



B. RUSS HORTON

1100 NORWOOD TOWER | 114 WEST 7TH ST | AUSTIN, TX 78701
512.495.1400 | FAX 512.499.0094

June 7, 2017

Via Hand Delivery

City of Austin – Development Services Department
Development Assistance Center – One Texas Center
505 Barton Springs Road
Austin, Texas 78704

Re: Applications for Sign Permits/Digital Sign Face
The Following Addresses:

- 3405 S Congress
- 7301 Burleson Rd
- 1527 1/2 SH 71 E
- 2355 1/2 SH 71 E
- 9127 1/2 IH 35 N
- 13443 N FM 620
- 13301 1/2 US Hwy 183 N
- 1809 Manor Rd
- 308 1/2 IH 35 N
- 400 1/2 IH 35 N
- 410 W 18th St

Dear Sir or Madam:

I write on behalf of Reagan National Advertising of Austin, Inc. to request that the City issue permits for the installation of digital sign faces on the above listed existing sign structures. Enclosed are the permit applications for these locations, which are being submitted in administratively complete form. Reagan has included a separate check with each application. Each of the eleven checks is in the amount of \$85.28. If the City determines that the enclosed applications are not administratively complete, I request that you notify me immediately of such determination and allow a statutorily compliant opportunity to complete the applications.

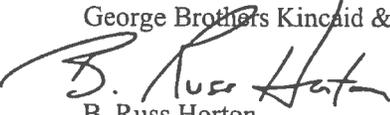
Reagan further asserts, in light the recent authorities of *Reed v. Town of Gilbert, Arizona*, 135 S. Ct. 2218 (2015) and *Auspro Enters, LP v. Texas Dep't. of Transp.*, 506 S.W.3d 688 (Tex. App.—Austin, 2016, pet. filed), that the City review these applications in conformity with the Constitutional constraints precluding the City from limiting my client's rights of free speech and expression.

Reagan asks that the City review and approve these permit applications in a prompt and reasonable manner. If you have any questions or would like to discuss this issue, please call.

GEORGE BROTHERS KINCAID & HORTON, L.L.P.
PAGE 2

Yours sincerely,

George Brothers Kincaid & Horton, L.L.P.



B. Russ Horton

Enclosures



Development Services Department APPLICATION FOR SIGN PERMIT (PLEASE PRINT)

ONLY COMPLETE APPLICATIONS WITH ALL REQUIRED DOCUMENTS WILL BE ACCEPTED

APPLICATION DATE:

CASE NUMBER:

ADDRESS OF SIGN: 9127 1/2 N IH 35		LEGAL DESCRIPTION TAX PARCEL I.D.#: 243472	LOT 2 & 3	BLOCK
SIGN OWNER: Reagan National Advertising of Austin, Inc.		SUBDIVISION:		
SIGN COMPANY: Reagan National Adv.	CONTACT: Doug Lister	PHONE: (512) 926-7740	FAX:	
SIGN COMPANY'S ADDRESS: (ADDRESS/CITY/ST/ZIP) 7301 Burleson Rd, Austin, Tx 78744		EMAIL: dlister@reaganadvertising.com		
PROPOSED ADVERTISEMENT:		ELEVATION (CIRCLE ONE): NORTH SOUTH <u>EAST</u> WEST		

DESCRIPTION OF WORK TO BE DONE: Conversion to electronically controlled changeable-copy sign

----- WALL SIGN (BUILDING, CANOPY, AWNING) -----

SIGN FACE DIMENSIONS:	TOTAL SIGN FACE AREA OF THIS PERMIT:	TOTAL AREA OF EXISTING SIGNS ON FAÇADE:
DIMENSIONS OF BUILDING FAÇADE (WIDTH X HEIGHT):	ELECTRIC SIGN: YES/NO	(NOTE: IF YES, ELECTRIC PERMIT IS REQUIRED BEFORE ISSUANCE OF SIGN INSTALLATION PERMIT)

----- FREESTANDING SIGN, ROOF SIGN, PROJECTING SIGN -----

SIGN FACE DIMENSIONS: 14' x 48'	TOTAL SIGN FACE AREA OF THIS PERMIT: 672'	TOTAL HEIGHT OF SIGN: As existing
SETBACK OF SIGN? (DISTANCE FROM SIGN TO PROPERTY LINE): 55'	CLEARANCE ABOVE GRADE: As existing	LINEAR FEET OF STREET FRONTAGE: 418'
IS THIS A PAD SITE? YES/NO	ROOF SIGN? YES/NO	ELEC? <u>YES</u> NO
REGISTERED BILLBOARD (OFF-PREMISE) SIGN? YES/NO	ELECTRIC SIGN: YES/NO (NOTE: IF YES, ELECTRIC PERMIT IS REQUIRED BEFORE ISSUANCE OF SIGN INSTALLATION PERMIT)	

WILL PROPOSED SIGN BE LOCATED WITHIN A P.U.E.? YES/NO IF YES, THE HOLDER OF THE PUBLIC EASEMENT MUST BE CONTACTED FOR CLEARANCE

NOTE: SIGNS MUST MAINTAIN HORIZONTAL AND VERTICAL CLEARANCE OF ALL OVERHEAD ELECTRICAL CONDUCTORS IN ACCORDANCE WITH SPECIFICATIONS OF THE NATIONAL ELECTRICAL CODE, LOCAL CODE AMENDMENTS, AND ALL OTHER APPLICABLE LAWS

(SIGNATURES IN THESE BLANKS INDICATE THAT THE PROPERTY OWNER IS AWARE OF THE APPLICATION FOR A SIGN PERMIT AND THAT ALL OF THE ABOVE INFORMATION IS TRUE AND CORRECT)

William Reagan II
SIGNATURE OF SIGN COMPANY REPRESENTATIVE

Dan W. Petru LCE 19879
SIGNATURE OF LICENSE ELECTRICIAN (REQUIRED FOR ELECTRICAL SIGNS)
AUTHORIZATION FOR SIGN COMPANY TO PULL ELECTRIC PERMIT? YES/NO

DEPARTMENT USE ONLY

PERMIT FEE:	ELECTRIC PERMIT FEE:	PLAN REVIEW FEE:	DATE:	RECEIPT#
GRID:	ZONING:	ENGINEERING SEAL REQUIRED? YES/NO	SIGN DISTRICT:	

REMARKS:

<input type="checkbox"/> APPROVE <input type="checkbox"/> DISAPPROVE	ZONING REVIEW ANALYST:	DATE:
UPDATE SUBMITTAL DATE:	ZONING REVIEW ANALYST:	DATE:
<input type="checkbox"/> APPROVE <input type="checkbox"/> DISAPPROVE		



Development Services Department

SIGN PERMIT PROCESS**SUBMITTAL REQUIREMENTS:**

1. A completed "APPLICATION FOR SIGN PERMIT", including legal description* (one application for each sign).
*Travis County Appraisal District 834-9317
2. For all **FREESTANDING SIGNS, ROOF SIGNS & PROJECTING SIGNS:**
 - a. Construction drawing of the sign bearing the seal of an architect or engineer licensed by the State of Texas verifying the structural requirements of SECTION 25-10-192(A).
The drawing **MUST** include:
 - 1) HEIGHT of sign
 - 2) DETAILS & DIMENSIONS of all structural and nonstructural members to include sign supports,
 - 3) DETAILS & DIMENSIONS of foundations and footing members, and
 - 4) ADVERTISING AREA of all sign facades
 - b. Complete site drawing **TO SCALE** that **MUST** include:
 - 1) LOCATION of proposed sign and **SETBACK DISTANCES** from sign supports to property lines fronting on a street,
 - 2) **LINEAR FEET** street frontage dimensions
 - 3) **LOCATIONS** of all existing **FREESTANDING** signs on the same property,
 - 4) **LOCATIONS** of **ALL** easements and/or utility lines within twenty feet of the proposed sign location.
3. For all **WALL and AWNING* SIGNS:**
 - a. Construction drawing of the sign. The drawing **MUST** include:
 - 1) DETAILS & DIMENSIONS of structural and nonstructural methods of attachment or anchoring to the building,
 - 2) ADVERTISING AREA of the sign.
 - b. A drawing or photograph of the building façade that **MUST** include:
 - 1) DIMENSIONS of the façade and
 - 2) LOCATIONS and SIZES of all other signs on the building.

*Building permit for awning must be existing before issuance of awning sign
4. **SIGN REVIEW FEE** (*MUST be paid at time of submittal*):
Wall Signs, Freestanding Signs, Roof Signs:
See Commercial Review and Permit Fees at <http://www.austintexas.gov/department/fees>
5. **SIGN PERMIT FEE** (*paid at the time of permit issuance*):
Sign Permit, Electric Permit, Dev. Svcs. Surcharge:
See Commercial Review and Permit Fees at <http://www.austintexas.gov/department/fees>

SIGN PERMIT INFORMATION:

1. Sign permits may only be issued to Outdoor Advertisers registered and insured with the City of Austin, except as noted in LDC Section 25-10-231.
2. Electrical signs must be permitted in accordance with all applicable codes before the structural sign permit can be finalized (*electrical permits are required for connection of electrical signs*).
3. Any electrical sign permit applications must have the signature of the Master Electrician licensed with the City of Austin.

9127 1/2 N IH 35



Legend

-  Lot Lines
-  Streets
-  Building Footprints
-  Named Creeks
-  Lakes and Rivers
-  Parks
-  County
-  Address Points
-  Lot Line
-  Easement Annotation
-  Easement Lines

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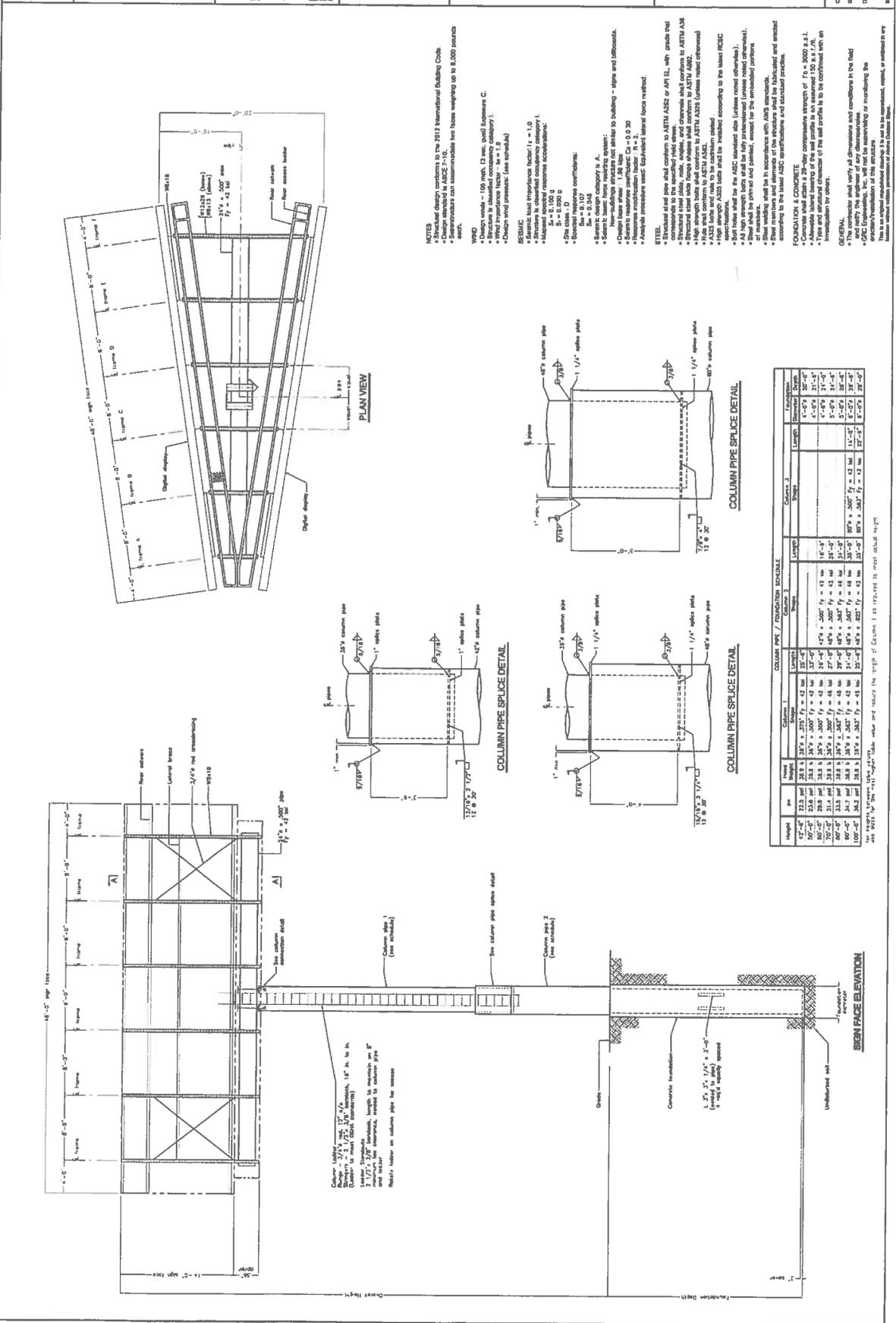
9127 1/2 N IH 35



Legend

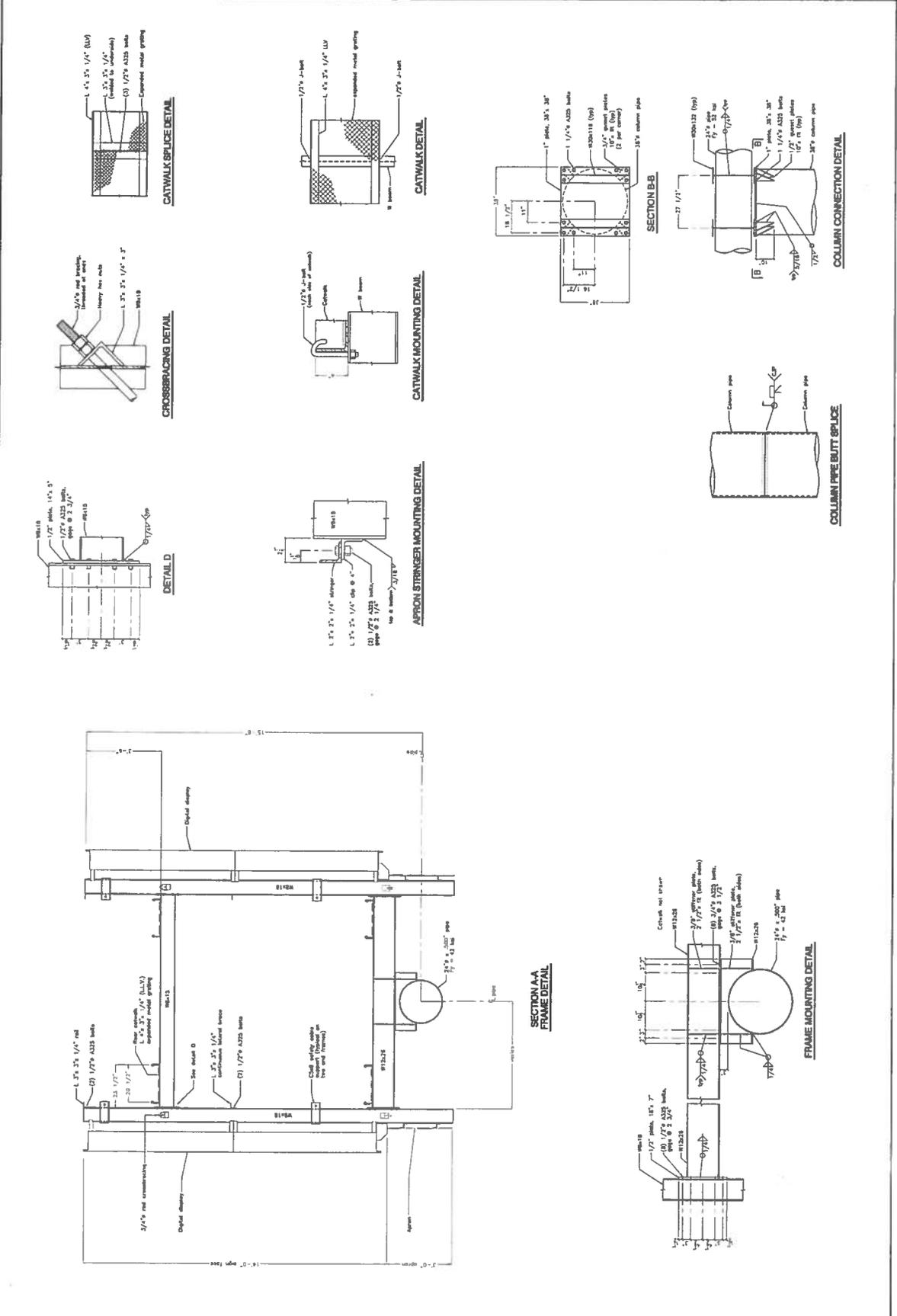
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Height	Column 1		Column 2		Column 3	
	Area	Length	Area	Length	Area	Length
12'-0"	22.3 sq ft	13'-0"	18.7 sq ft	12'-0"	14.7 sq ft	10'-0"
15'-0"	28.8 sq ft	16'-0"	24.2 sq ft	15'-0"	19.7 sq ft	12'-0"
18'-0"	35.3 sq ft	19'-0"	30.7 sq ft	18'-0"	25.7 sq ft	15'-0"
21'-0"	41.8 sq ft	22'-0"	37.2 sq ft	21'-0"	31.7 sq ft	18'-0"
24'-0"	48.3 sq ft	25'-0"	43.7 sq ft	24'-0"	37.7 sq ft	21'-0"
27'-0"	54.8 sq ft	28'-0"	50.2 sq ft	27'-0"	43.7 sq ft	24'-0"
30'-0"	61.3 sq ft	31'-0"	56.7 sq ft	30'-0"	49.7 sq ft	27'-0"
33'-0"	67.8 sq ft	34'-0"	63.2 sq ft	33'-0"	55.7 sq ft	30'-0"
36'-0"	74.3 sq ft	37'-0"	69.7 sq ft	36'-0"	61.7 sq ft	33'-0"
39'-0"	80.8 sq ft	40'-0"	76.2 sq ft	39'-0"	67.7 sq ft	36'-0"
42'-0"	87.3 sq ft	43'-0"	82.7 sq ft	42'-0"	73.7 sq ft	39'-0"
45'-0"	93.8 sq ft	46'-0"	89.2 sq ft	45'-0"	79.7 sq ft	42'-0"
48'-0"	100.3 sq ft	49'-0"	95.7 sq ft	48'-0"	85.7 sq ft	45'-0"
51'-0"	106.8 sq ft	52'-0"	102.2 sq ft	51'-0"	91.7 sq ft	48'-0"
54'-0"	113.3 sq ft	55'-0"	108.7 sq ft	54'-0"	97.7 sq ft	51'-0"
57'-0"	119.8 sq ft	58'-0"	115.2 sq ft	57'-0"	103.7 sq ft	54'-0"
60'-0"	126.3 sq ft	61'-0"	121.7 sq ft	60'-0"	109.7 sq ft	57'-0"
63'-0"	132.8 sq ft	64'-0"	128.2 sq ft	63'-0"	115.7 sq ft	60'-0"
66'-0"	139.3 sq ft	67'-0"	134.7 sq ft	66'-0"	121.7 sq ft	63'-0"
69'-0"	145.8 sq ft	70'-0"	141.2 sq ft	69'-0"	127.7 sq ft	66'-0"
72'-0"	152.3 sq ft	73'-0"	147.7 sq ft	72'-0"	133.7 sq ft	69'-0"
75'-0"	158.8 sq ft	76'-0"	154.2 sq ft	75'-0"	139.7 sq ft	72'-0"
78'-0"	165.3 sq ft	79'-0"	160.7 sq ft	78'-0"	145.7 sq ft	75'-0"
81'-0"	171.8 sq ft	82'-0"	167.2 sq ft	81'-0"	151.7 sq ft	78'-0"
84'-0"	178.3 sq ft	85'-0"	173.7 sq ft	84'-0"	157.7 sq ft	81'-0"
87'-0"	184.8 sq ft	88'-0"	180.2 sq ft	87'-0"	163.7 sq ft	84'-0"
90'-0"	191.3 sq ft	91'-0"	186.7 sq ft	90'-0"	169.7 sq ft	87'-0"
93'-0"	197.8 sq ft	94'-0"	193.2 sq ft	93'-0"	175.7 sq ft	90'-0"
96'-0"	204.3 sq ft	97'-0"	199.7 sq ft	96'-0"	181.7 sq ft	93'-0"
99'-0"	210.8 sq ft	100'-0"	206.2 sq ft	99'-0"	187.7 sq ft	96'-0"
102'-0"	217.3 sq ft	103'-0"	212.7 sq ft	102'-0"	193.7 sq ft	99'-0"
105'-0"	223.8 sq ft	106'-0"	219.2 sq ft	105'-0"	199.7 sq ft	102'-0"
108'-0"	230.3 sq ft	109'-0"	225.7 sq ft	108'-0"	205.7 sq ft	105'-0"
111'-0"	236.8 sq ft	112'-0"	232.2 sq ft	111'-0"	211.7 sq ft	108'-0"
114'-0"	243.3 sq ft	115'-0"	238.7 sq ft	114'-0"	217.7 sq ft	111'-0"
117'-0"	249.8 sq ft	118'-0"	245.2 sq ft	117'-0"	223.7 sq ft	114'-0"
120'-0"	256.3 sq ft	121'-0"	251.7 sq ft	120'-0"	229.7 sq ft	117'-0"
123'-0"	262.8 sq ft	124'-0"	258.2 sq ft	123'-0"	235.7 sq ft	120'-0"
126'-0"	269.3 sq ft	127'-0"	264.7 sq ft	126'-0"	241.7 sq ft	123'-0"
129'-0"	275.8 sq ft	130'-0"	271.2 sq ft	129'-0"	247.7 sq ft	126'-0"
132'-0"	282.3 sq ft	133'-0"	277.7 sq ft	132'-0"	253.7 sq ft	129'-0"
135'-0"	288.8 sq ft	136'-0"	284.2 sq ft	135'-0"	259.7 sq ft	132'-0"
138'-0"	295.3 sq ft	139'-0"	290.7 sq ft	138'-0"	265.7 sq ft	135'-0"
141'-0"	301.8 sq ft	142'-0"	297.2 sq ft	141'-0"	271.7 sq ft	138'-0"
144'-0"	308.3 sq ft	145'-0"	303.7 sq ft	144'-0"	277.7 sq ft	141'-0"
147'-0"	314.8 sq ft	148'-0"	310.2 sq ft	147'-0"	283.7 sq ft	144'-0"
150'-0"	321.3 sq ft	151'-0"	316.7 sq ft	150'-0"	289.7 sq ft	147'-0"
153'-0"	327.8 sq ft	154'-0"	323.2 sq ft	153'-0"	295.7 sq ft	150'-0"
156'-0"	334.3 sq ft	157'-0"	329.7 sq ft	156'-0"	301.7 sq ft	153'-0"
159'-0"	340.8 sq ft	160'-0"	336.2 sq ft	159'-0"	307.7 sq ft	156'-0"
162'-0"	347.3 sq ft	163'-0"	342.7 sq ft	162'-0"	313.7 sq ft	159'-0"
165'-0"	353.8 sq ft	166'-0"	349.2 sq ft	165'-0"	319.7 sq ft	162'-0"
168'-0"	360.3 sq ft	169'-0"	355.7 sq ft	168'-0"	325.7 sq ft	165'-0"
171'-0"	366.8 sq ft	172'-0"	362.2 sq ft	171'-0"	331.7 sq ft	168'-0"
174'-0"	373.3 sq ft	175'-0"	368.7 sq ft	174'-0"	337.7 sq ft	171'-0"
177'-0"	379.8 sq ft	178'-0"	375.2 sq ft	177'-0"	343.7 sq ft	174'-0"
180'-0"	386.3 sq ft	181'-0"	381.7 sq ft	180'-0"	349.7 sq ft	177'-0"
183'-0"	392.8 sq ft	184'-0"	388.2 sq ft	183'-0"	355.7 sq ft	180'-0"
186'-0"	399.3 sq ft	187'-0"	394.7 sq ft	186'-0"	361.7 sq ft	183'-0"
189'-0"	405.8 sq ft	190'-0"	401.2 sq ft	189'-0"	367.7 sq ft	186'-0"
192'-0"	412.3 sq ft	193'-0"	407.7 sq ft	192'-0"	373.7 sq ft	189'-0"
195'-0"	418.8 sq ft	196'-0"	414.2 sq ft	195'-0"	379.7 sq ft	192'-0"
198'-0"	425.3 sq ft	199'-0"	420.7 sq ft	198'-0"	385.7 sq ft	195'-0"
201'-0"	431.8 sq ft	202'-0"	427.2 sq ft	201'-0"	391.7 sq ft	198'-0"
204'-0"	438.3 sq ft	205'-0"	433.7 sq ft	204'-0"	397.7 sq ft	201'-0"
207'-0"	444.8 sq ft	208'-0"	440.2 sq ft	207'-0"	403.7 sq ft	204'-0"
210'-0"	451.3 sq ft	211'-0"	446.7 sq ft	210'-0"	409.7 sq ft	207'-0"
213'-0"	457.8 sq ft	214'-0"	453.2 sq ft	213'-0"	415.7 sq ft	210'-0"
216'-0"	464.3 sq ft	217'-0"	459.7 sq ft	216'-0"	421.7 sq ft	213'-0"
219'-0"	470.8 sq ft	220'-0"	466.2 sq ft	219'-0"	427.7 sq ft	216'-0"
222'-0"	477.3 sq ft	223'-0"	472.7 sq ft	222'-0"	433.7 sq ft	219'-0"
225'-0"	483.8 sq ft	226'-0"	479.2 sq ft	225'-0"	439.7 sq ft	222'-0"
228'-0"	490.3 sq ft	229'-0"	485.7 sq ft	228'-0"	445.7 sq ft	225'-0"
231'-0"	496.8 sq ft	232'-0"	492.2 sq ft	231'-0"	451.7 sq ft	228'-0"
234'-0"	503.3 sq ft	235'-0"	498.7 sq ft	234'-0"	457.7 sq ft	231'-0"
237'-0"	509.8 sq ft	238'-0"	505.2 sq ft	237'-0"	463.7 sq ft	234'-0"
240'-0"	516.3 sq ft	241'-0"	511.7 sq ft	240'-0"	469.7 sq ft	237'-0"
243'-0"	522.8 sq ft	244'-0"	518.2 sq ft	243'-0"	475.7 sq ft	240'-0"
246'-0"	529.3 sq ft	247'-0"	524.7 sq ft	246'-0"	481.7 sq ft	243'-0"
249'-0"	535.8 sq ft	250'-0"	531.2 sq ft	249'-0"	487.7 sq ft	246'-0"
252'-0"	542.3 sq ft	253'-0"	537.7 sq ft	252'-0"	493.7 sq ft	249'-0"
255'-0"	548.8 sq ft	256'-0"	544.2 sq ft	255'-0"	499.7 sq ft	252'-0"
258'-0"	555.3 sq ft	259'-0"	550.7 sq ft	258'-0"	505.7 sq ft	255'-0"
261'-0"	561.8 sq ft	262'-0"	557.2 sq ft	261'-0"	511.7 sq ft	258'-0"
264'-0"	568.3 sq ft	265'-0"	563.7 sq ft	264'-0"	517.7 sq ft	261'-0"
267'-0"	574.8 sq ft	268'-0"	570.2 sq ft	267'-0"	523.7 sq ft	264'-0"
270'-0"	581.3 sq ft	271'-0"	576.7 sq ft	270'-0"	529.7 sq ft	267'-0"
273'-0"	587.8 sq ft	274'-0"	583.2 sq ft	273'-0"	535.7 sq ft	270'-0"
276'-0"	594.3 sq ft	277'-0"	589.7 sq ft	276'-0"	541.7 sq ft	273'-0"
279'-0"	600.8 sq ft	280'-0"	596.2 sq ft	279'-0"	547.7 sq ft	276'-0"
282'-0"	607.3 sq ft	283'-0"	602.7 sq ft	282'-0"	553.7 sq ft	279'-0"
285'-0"	613.8 sq ft	286'-0"	609.2 sq ft	285'-0"	559.7 sq ft	282'-0"
288'-0"	620.3 sq ft	289'-0"	615.7 sq ft	288'-0"	565.7 sq ft	285'-0"
291'-0"	626.8 sq ft	292'-0"	622.2 sq ft	291'-0"	571.7 sq ft	288'-0"
294'-0"	633.3 sq ft	295'-0"	628.7 sq ft	294'-0"	577.7 sq ft	291'-0"
297'-0"	639.8 sq ft	298'-0"	635.2 sq ft	297'-0"	583.7 sq ft	294'-0"
300'-0"	646.3 sq ft	301'-0"	641.7 sq ft	300'-0"	589.7 sq ft	297'-0"
303'-0"	652.8 sq ft	304'-0"	648.2 sq ft	303'-0"	595.7 sq ft	300'-0"
306'-0"	659.3 sq ft	307'-0"	654.7 sq ft	306'-0"	601.7 sq ft	303'-0"
309'-0"	665.8 sq ft	310'-0"	661.2 sq ft	309'-0"	607.7 sq ft	306'-0"
312'-0"	672.3 sq ft	313'-0"	667.7 sq ft	312'-0"	613.7 sq ft	309'-0"
315'-0"	678.8 sq ft	316'-0"	674.2 sq ft	315'-0"	619.7 sq ft	312'-0"
318'-0"	685.3 sq ft	319'-0"	680.7 sq ft	318'-0"	625.7 sq ft	315'-0"
321'-0"	691.8 sq ft	322'-0"	687.2 sq ft	321'-0"	631.7 sq ft	318'-0"
324'-0"	698.3 sq ft	325'-0"	693.7 sq ft	324'-0"	637.7 sq ft	321'-0"
327'-0"	704.8 sq ft	328'-0"	700.2 sq ft	327'-0"	643.7 sq ft	324'-0"
330'-0"	711.3 sq ft	331'-0"	706.7 sq ft	330'-0"	649.7 sq ft	327'-0"
333'-0"	717.8 sq ft	334'-0"	713.2 sq ft	333'-0"	655.7 sq ft	330'-0"
336'-0"	724.3 sq ft	337'-0"	719.7 sq ft	336'-0"	661.7 sq ft	333'-0"
339'-0"	730.8 sq ft	340'-0"	726.2 sq ft	339'-0"	667.7 sq ft	336'-0"
342'-0"	737.3 sq ft	343'-0"	732.7 sq ft	342'-0"	673.7 sq ft	339'-0"
345'-0"	743.8 sq ft	346'-0"	739.2 sq ft	345'-0"	679.7 sq ft	342'-0"
348'-0"	750.3 sq ft	349'-0"	745.7 sq ft	348'-0"	685.7 sq ft	345'-0"
351'-0"	756.8 sq ft	352'-0"	752.2 sq ft	351'-0"	691.7 sq ft	348'-0"
354'-0"	763.3 sq ft	355'-0"	758.7 sq ft	354'-0"	697.7 sq ft	351'-0"
357'-0"	769.8 sq ft	358'-0"	765.2 sq ft	357'-0"	703.7 sq ft	354'-0"
360'-0"	776.3 sq ft	361'-0"	771.7 sq ft	360'-0"	709.7 sq ft	357'-0"
363'-0"	782.8 sq ft	364'-0"	778.2 sq ft	363'-0"	715.7 sq ft	360'-0"
366'-0"	789.3 sq ft	367'-0"	784.7 sq ft	366'-0"	721.7 sq ft	363'-0"
369'-0"	795.8 sq ft	370'-0"	791.2 sq ft	369'-0"	727.7 sq ft	366'-0"
372'-0"	802.3 sq ft	373'-0"	797.7 sq ft			

<p>GRC ENGINEERING, INC. 307 FRENCH MARKET ROAD 708.698.0400</p>	<p>G. R. Carr Professional Engineer No. 11884 State of Texas</p>	<p>DATE: 01-11-11 BY: GRC CHECKED: GRC</p>	<p>PROJECT: ALAMO OUTDOOR SIGNS 10860 GOLF STREET SAN ANTONIO, TX 78268</p>	<p>MONOPOLE SIGN STRUCTURE 14'-0" x 48'-0" CENTRUMOUNT V DIGITAL DISPLAY AUSTIN, TEXAS</p>	<p>CUSTOMER: DU PROJECT NO.: 13-008-126 DRAWING NO.: 18637 SHEET: 2 of 2</p>
		<p>ENGINEER: GRC DATE: 01-11-11 BY: GRC CHECKED: GRC</p>	<p>PROJECT: ALAMO OUTDOOR SIGNS 10860 GOLF STREET SAN ANTONIO, TX 78268</p>	<p>MONOPOLE SIGN STRUCTURE 14'-0" x 48'-0" CENTRUMOUNT V DIGITAL DISPLAY AUSTIN, TEXAS</p>	<p>CUSTOMER: DU PROJECT NO.: 13-008-126 DRAWING NO.: 18637 SHEET: 2 of 2</p>





B. RUSS HORTON

1100 NORWOOD TOWER | 114 WEST 7TH ST | AUSTIN, TX 78701
512.495.1400 | FAX 512.499.0094 | [REDACTED]

June 7, 2017

Via Hand Delivery

City of Austin – Development Services Department
Development Assistance Center – One Texas Center
505 Barton Springs Road
Austin, Texas 78704

Re: Applications for Sign Permits/Digital Sign Face
The Following Addresses:

3405 S Congress
7301 Burleson Rd
1527 1/2 SH 71 E
2355 1/2 SH 71 E
9127 1/2 IH 35 N
13443 N FM 620
13301 1/2 US Hwy 183 N
1809 Manor Rd
308 1/2 IH 35 N
400 1/2 IH 35 N
410 W 18th St

Dear Sir or Madam:

I write on behalf of Reagan National Advertising of Austin, Inc. to request that the City issue permits for the installation of digital sign faces on the above listed existing sign structures. Enclosed are the permit applications for these locations, which are being submitted in administratively complete form. Reagan has included a separate check with each application. Each of the eleven checks is in the amount of \$85.28. If the City determines that the enclosed applications are not administratively complete, I request that you notify me immediately of such determination and allow a statutorily compliant opportunity to complete the applications.

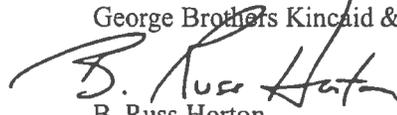
Reagan further asserts, in light the recent authorities of *Reed v. Town of Gilbert, Arizona*, 135 S. Ct. 2218 (2015) and *Auspro Enters, LP v. Texas Dep't. of Transp.*, 506 S.W.3d 688 (Tex. App.—Austin, 2016, pet. filed), that the City review these applications in conformity with the Constitutional constraints precluding the City from limiting my client's rights of free speech and expression.

Reagan asks that the City review and approve these permit applications in a prompt and reasonable manner. If you have any questions or would like to discuss this issue, please call.

GEORGE BROTHERS KINCAID & HORTON, L.L.P.
PAGE 2

Yours sincerely,

George Brothers Kincaid & Horton, L.L.P.


B. Russ Horton

Enclosures



Development Services Department
APPLICATION FOR SIGN PERMIT
(PLEASE PRINT)

ONLY COMPLETE APPLICATIONS WITH ALL REQUIRED DOCUMENTS WILL BE ACCEPTED

APPLICATION DATE: _____

CASE NUMBER: _____

ADDRESS OF SIGN: 13301 1/2 US Hwy 183 N		LEGAL DESCRIPTION TAX PARCEL I.D.#: R475080	LOT	BLOCK
SIGN OWNER: Reagan National Advertising of Austin, Inc.		SUBDIVISION:		
SIGN COMPANY: Reagan National Adv.	CONTACT: Doug Lister	PHONE: (512) 926-7740	FAX:	
SIGN COMPANY'S ADDRESS: (ADDRESS/CITY/ST/ZIP) 7301 Burleson Rd, Austin, Tx 78744		EMAIL: [REDACTED]		
PROPOSED ADVERTISEMENT:		ELEVATION (CIRCLE ONE) NORTH SOUTH EAST WEST		

DESCRIPTION OF WORK TO BE DONE: Conversion to electronically controlled changeable-copy sign

----- WALL SIGN (BUILDING, CANOPY, AWNING) -----

SIGN FACE DIMENSIONS:	TOTAL SIGN FACE AREA OF THIS PERMIT:	TOTAL AREA OF EXISTING SIGNS ON FACADE:
DIMENSIONS OF BUILDING FAÇADE (WIDTH X HEIGHT):	ELECTRIC SIGN: YES/NO	(NOTE: IF YES, ELECTRIC PERMIT IS REQUIRED BEFORE ISSUANCE OF SIGN INSTALLATION PERMIT)

----- FREESTANDING SIGN, ROOF SIGN, PROJECTING SIGN -----

SIGN FACE DIMENSIONS: 14' x 48'	TOTAL SIGN FACE AREA OF THIS PERMIT: 672'	TOTAL HEIGHT OF SIGN: As existing
SETBACK OF SIGN? (DISTANCE FROM SIGN TO PROPERTY LINE): 5'	CLEARANCE ABOVE GRADE: As existing	LINEAR FEET OF STREET FRONTAGE: 241'
IS THIS A PAD SITE? YES / NO	ROOF SIGN? YES/NO	ELEC? YES NO
REGISTERED BILLBOARD (OFF-PREMISE) SIGN? YES/NO	ELECTRIC SIGN: YES/NO	(NOTE: IF YES, ELECTRIC PERMIT IS REQUIRED BEFORE ISSUANCE OF SIGN INSTALLATION PERMIT)

WILL PROPOSED SIGN BE LOCATED WITHIN A P.U.E.? YES / NO: IF YES, THE HOLDER OF THE PUBLIC EASEMENT MUST BE CONTACTED FOR CLEARANCE

NOTE: SIGNS MUST MAINTAIN HORIZONTAL AND VERTICAL CLEARANCE OF ALL OVERHEAD ELECTRICAL CONDUCTORS IN ACCORDANCE WITH SPECIFICATIONS OF THE NATIONAL ELECTRICAL CODE, LOCAL CODE AMENDMENTS, AND ALL OTHER APPLICABLE LAWS

(SIGNATURES IN THESE BLANKS INDICATE THAT THE PROPERTY OWNER IS AWARE OF THE APPLICATION FOR A SIGN PERMIT AND THAT ALL OF THE ABOVE INFORMATION IS TRUE AND CORRECT)

William R. [Signature]
 SIGNATURE OF SIGN COMPANY REPRESENTATIVE

Dominic W. Petru LIC# 19829
 SIGNATURE OF LICENSE ELECTRICIAN (REQUIRED FOR ELECTRICAL SIGNS)
 AUTHORIZATION FOR SIGN COMPANY TO PULL ELECTRIC PERMIT? YES/NO

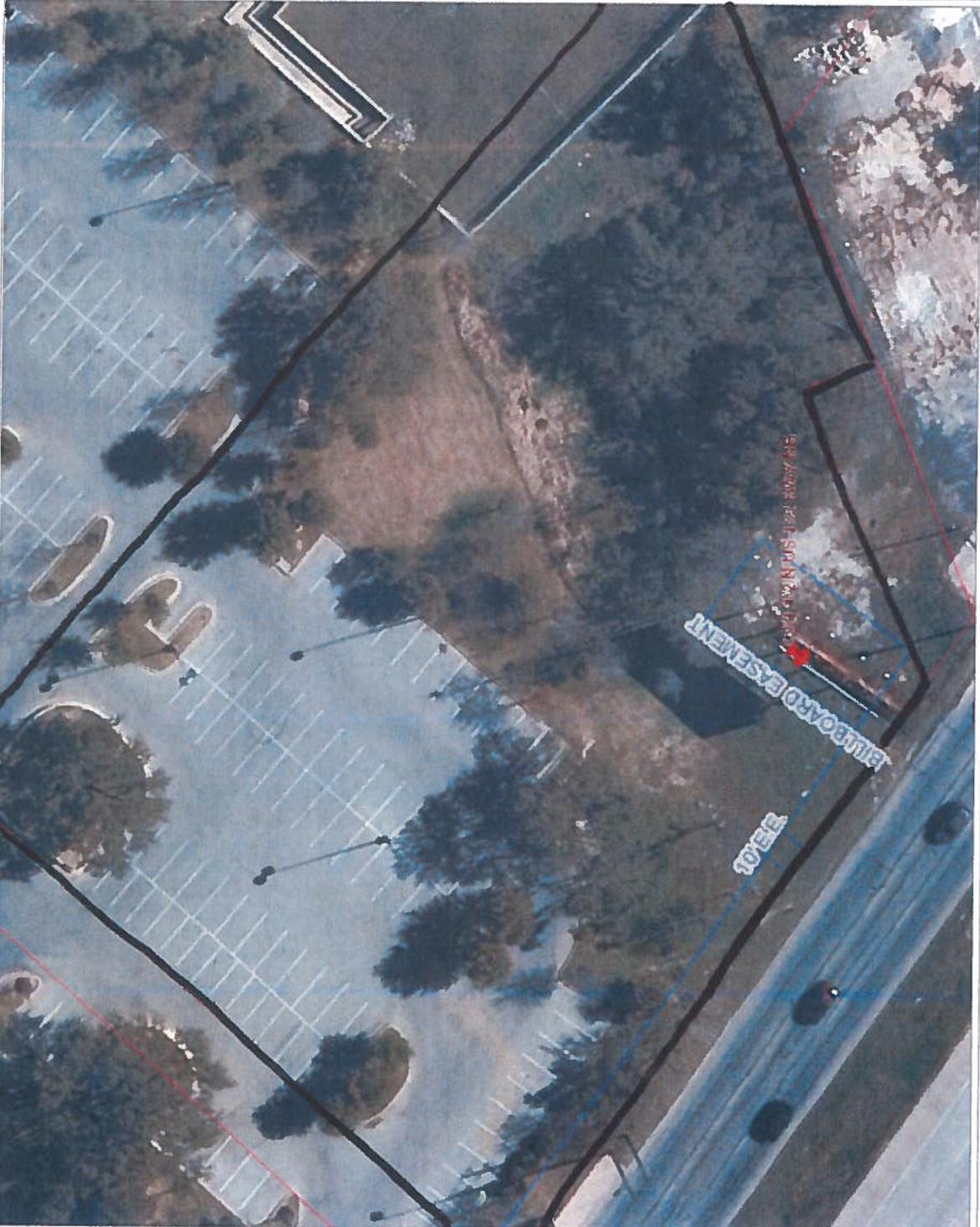
DEPARTMENT USE ONLY

PERMIT FEE:	ELECTRIC PERMIT FEE:	PLAN REVIEW FEE:	DATE:	RECEIPT#
GRID:	ZONING:	ENGINEERING SEAL REQUIRED? YES/NO	SIGN DISTRICT:	

REMARKS:

<input type="checkbox"/> APPROVE <input type="checkbox"/> DISAPPROVE	ZONING REVIEW ANALYST:	DATE
UPDATE SUBMITTAL DATE:	ZONING REVIEW ANALYST:	DATE
<input type="checkbox"/> APPROVE <input type="checkbox"/> DISAPPROVE		

13301 1/2 US HWY 183 N



Legend

-  Lot Lines
-  Streets
-  Building Footprints
-  Named Creeks
-  Lakes and Rivers
-  Parks
-  County
-  Address Points
-  Lot Line
-  Easement Annotation
-  Easement Lines

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. THIS PRODUCT HAS BEEN PRODUCED BY THE CITY OF AUSTIN FOR THE SOLE PURPOSE OF GEOGRAPHIC REFERENCE. NO WARRANTY IS MADE BY THE CITY OF AUSTIN REGARDING SPECIFIC ACCURACY OR COMPLETENESS.



Development Services Department

SIGN PERMIT PROCESS**SUBMITTAL REQUIREMENTS:**

1. A completed "**APPLICATION FOR SIGN PERMIT**", including legal description* (one application for each sign).
*Travis County Appraisal District 834-9317
2. For all **FREESTANDING SIGNS, ROOF SIGNS & PROJECTING SIGNS**:
 - a. Construction drawing of the sign bearing the seal of an architect or engineer licensed by the State of Texas verifying the structural requirements of SECTION 25-10-192(A). The drawing **MUST** include:
 - 1) HEIGHT of sign
 - 2) DETAILS & DIMENSIONS of all structural and nonstructural members to include sign supports,
 - 3) DETAILS & DIMENSIONS of foundations and footing members, and
 - 4) ADVERTISING AREA of all sign facades
 - b. Complete site drawing **TO SCALE** that **MUST** include:
 - 1) LOCATION of proposed sign and **SETBACK DISTANCES** from sign supports to property lines fronting on a street,
 - 2) **LINEAR FEET** street frontage dimensions
 - 3) **LOCATIONS** of all existing **FREESTANDING** signs on the same property,
 - 4) **LOCATIONS** of **ALL** easements and/or utility lines within twenty feet of the proposed sign location.
3. For all **WALL and AWNING* SIGNS**:
 - a. Construction drawing of the sign. The drawing **MUST** include:
 - 1) DETAILS & DIMENSIONS of structural and nonstructural methods of attachment or anchoring to the building,
 - 2) ADVERTISING AREA of the sign.
 - b. A drawing or photograph of the building façade that **MUST** include:
 - 1) DIMENSIONS of the façade and
 - 2) LOCATIONS and SIZES of all other signs on the building.

*Building permit for awning must be existing before issuance of awning sign
4. **SIGN REVIEW FEE** (*MUST be paid at time of submittal*):
Wall Signs, Freestanding Signs, Roof Signs:
See Commercial Review and Permit Fees at <http://www.austintexas.gov/department/fees>
5. **SIGN PERMIT FEE** (*paid at the time of permit issuance*):
Sign Permit, Electric Permit, Dev. Svcs. Surcharge:
See Commercial Review and Permit Fees at <http://www.austintexas.gov/department/fees>

SIGN PERMIT INFORMATION:

1. Sign permits may only be issued to Outdoor Advertisers registered and insured with the City of Austin, except as noted in LDC Section 25-10-231.
2. Electrical signs must be permitted in accordance with all applicable codes before the structural sign permit can be finalized (*electrical permits are required for connection of electrical signs*).
3. Any electrical sign permit applications must have the signature of the Master Electrician licensed with the City of Austin.

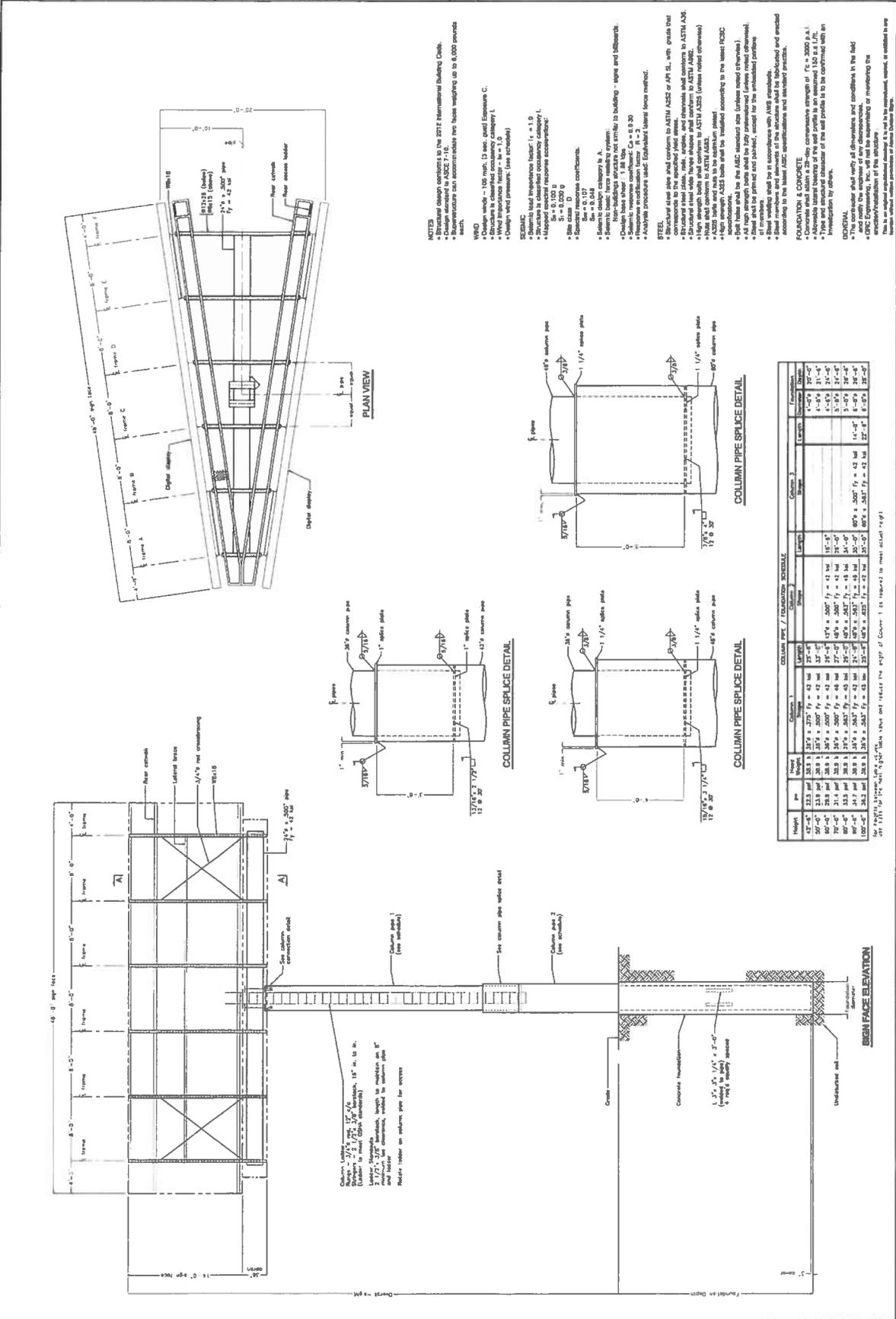
GRC ENGINEERING, INC.
 10000 FOREST BLVD, SUITE 100
 FORT WORTH, TEXAS 76137
 817-335-1000

ALAMO OUTDOOR SIGNS
 1890 GOLF STREET
 SAN ANTONIO, TX 78288

MONOPILE SIGN STRUCTURE
 CENTERMOUNT V
 AUSTIN, TEXAS

DATE: 04-11-13
 DRAWN BY: [Redacted]
 CHECKED BY: [Redacted]
 DESIGNED BY: [Redacted]

CALC. NO. 00
 GRC NO. 13-000-128
 DRAWING NO. 16837
 SHEET 1 of 2



NOTES

- 1. All design and construction shall conform to the 2012 International Building Code.
- 2. Design standard is ASCE 7-10.
- 3. Manufacturer can accommodate these loads weighing up to 6,000 pounds.

WIND

- 1. Design wind - 100 mph, (3 sec. gust) Exposure C.
- 2. Structure is classified occupancy category I.
- 3. Wind direction is as shown.
- 4. Wind speed is as shown.
- 5. Design wind pressure, (see schedule)

SEISMIC

- 1. Seismic load importance factor: $I_p = 1.0$
- 2. Structure is classified occupancy category I.
- 3. Seismic design spectral response acceleration $S_a = 0.100$
- 4. Maximum seismic response coefficient $C_s = 0.130$
- 5. Seismic modification factor $R = 3$
- 6. All other provisions under Equivalent lateral force method.

STEEL

- 1. All steel shall conform to ASTM A36 or A992, with grade that corresponds to the specified yield stress.
- 2. All steel shall conform to ASTM A572.
- 3. All steel shall have minimum yield strength and minimum to ASTM A572.
- 4. All steel shall have minimum yield strength and minimum to ASTM A572.
- 5. All steel shall have minimum yield strength and minimum to ASTM A572.
- 6. All steel shall have minimum yield strength and minimum to ASTM A572.
- 7. All steel shall have minimum yield strength and minimum to ASTM A572.
- 8. All steel shall have minimum yield strength and minimum to ASTM A572.
- 9. All steel shall have minimum yield strength and minimum to ASTM A572.
- 10. All steel shall have minimum yield strength and minimum to ASTM A572.

FOUNDATION & CONCRETE

- 1. Concrete shall have a 28-day compressive strength of $f'_c = 3000$ p.s.i.
- 2. All concrete shall be cast in place.
- 3. Type and structural strength of the soil profile to be confirmed with an investigation by others.

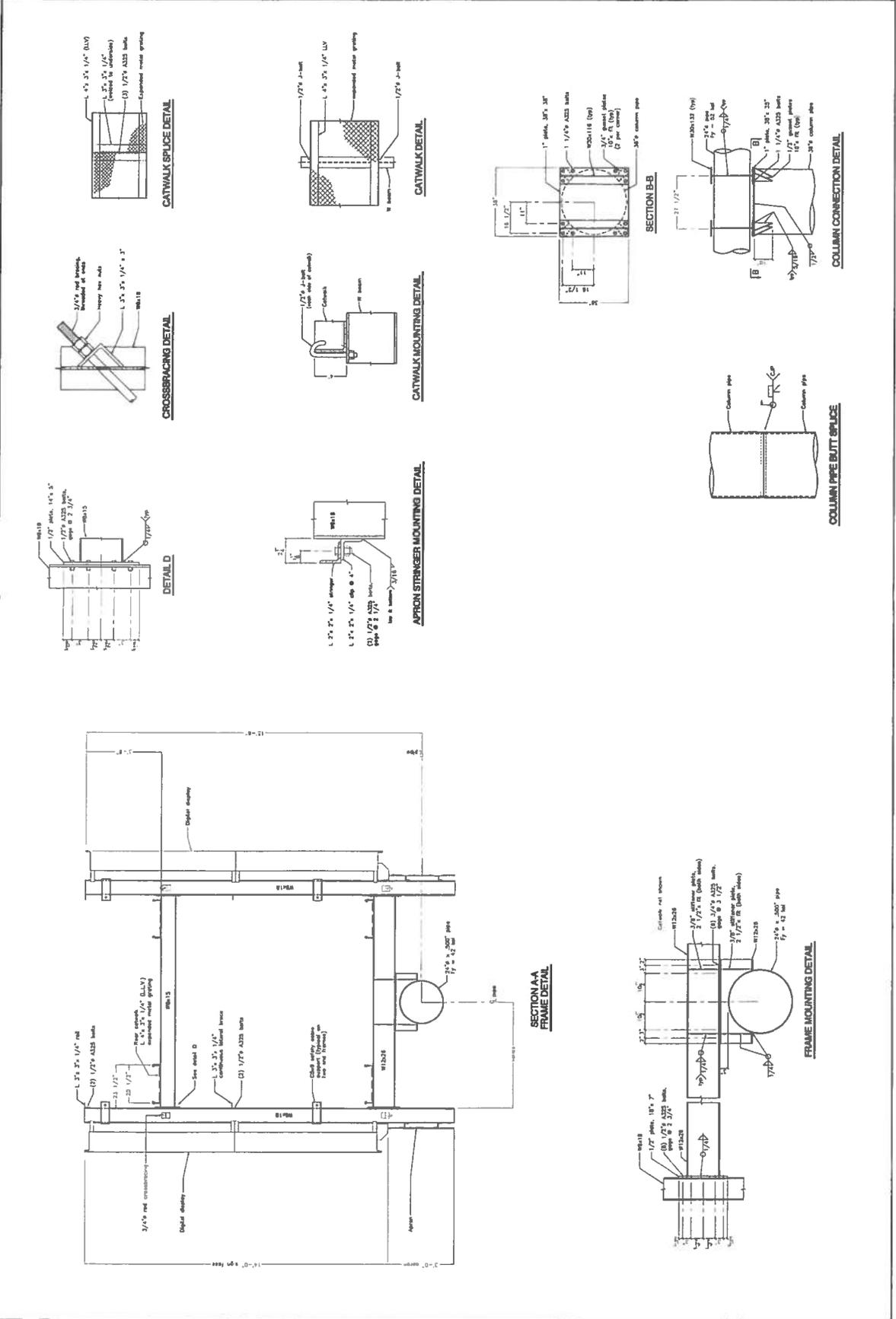
GENERAL

- 1. All work shall be in accordance with the specifications and conditions in the bid.
- 2. All work shall be in accordance with the specifications and conditions in the bid.
- 3. All work shall be in accordance with the specifications and conditions in the bid.
- 4. All work shall be in accordance with the specifications and conditions in the bid.
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- 9. All work shall be in accordance with the specifications and conditions in the bid.
- 10. All work shall be in accordance with the specifications and conditions in the bid.

Height	COLUMN 1		COLUMN 2		COLUMN 3	
	Area	Length	Area	Length	Area	Length
42'-0"	23.8 sq ft	32.7 ft	23.8 sq ft	32.7 ft	23.8 sq ft	32.7 ft
50'-0"	23.8 sq ft	32.7 ft	23.8 sq ft	32.7 ft	23.8 sq ft	32.7 ft
58'-0"	23.8 sq ft	32.7 ft	23.8 sq ft	32.7 ft	23.8 sq ft	32.7 ft
66'-0"	23.8 sq ft	32.7 ft	23.8 sq ft	32.7 ft	23.8 sq ft	32.7 ft
74'-0"	23.8 sq ft	32.7 ft	23.8 sq ft	32.7 ft	23.8 sq ft	32.7 ft
82'-0"	23.8 sq ft	32.7 ft	23.8 sq ft	32.7 ft	23.8 sq ft	32.7 ft
90'-0"	23.8 sq ft	32.7 ft	23.8 sq ft	32.7 ft	23.8 sq ft	32.7 ft
98'-0"	23.8 sq ft	32.7 ft	23.8 sq ft	32.7 ft	23.8 sq ft	32.7 ft
106'-0"	23.8 sq ft	32.7 ft	23.8 sq ft	32.7 ft	23.8 sq ft	32.7 ft
114'-0"	23.8 sq ft	32.7 ft	23.8 sq ft	32.7 ft	23.8 sq ft	32.7 ft
122'-0"	23.8 sq ft	32.7 ft	23.8 sq ft	32.7 ft	23.8 sq ft	32.7 ft

ALL DIMENSIONS ARE IN FEET AND INCHES. THE TOP OF COLUMN 1 IS INDICATED BY THE TOP OF SIGN.

 <p>GRC ENGINEERING, INC. 1001 FOREST, SUITE 200A FORT WORTH, TEXAS 76104 TEL: 817-342-0100</p>	 <p>Donald L. Covatta 28220 28220 28220</p>	PROJECT NO. 15-005-128 DRAWING NO. 16637 SHEET 2 of 2
		CLIENT: MONOPOLE SIGN STRUCTURE CENTERMOUNT V DIGITAL DISPLAY AUSTIN, TEXAS
14'-0" x 48'-0" 1860 GOLD STREET SAN ANTONIO, TX 78288 ALAMO OUTDOOR SIGNS		DATE: 2-4-11 DRAWN BY: [] CHECKED BY: [] IN CHARGE: []



1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50
---	---	---	---	---	---	---	---	---	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----

J01/159

VENDOR: REMIT TO:	VC121 CITY OF AUSTIN	CHECK: COMMENT:	0000460422	DATE:	6/2/2017
20170601-1	6/1/2017	0000076273	DIGITAL PERMIT APPLICATION	85.28	0.00
				85.28	85.28

THIS CHECK IS VOID WITHOUT A BLUE & RED BACKGROUND AND A WATERMARK. HOLD UP TO THE LIGHT TO VERIFY.

Reagan National Advertising of Austin, Inc.
 1775 North Warm Springs Road
 Salt Lake City, Utah 84116

usbank
 US Bank
 97-215/1243

0000460422

DATE	6/2/2017
AMOUNT	\$**85.28

PAY Eighty-five and 28 / 100 U.S. Dollar

TO THE
 ORDER
 OF

CITY OF AUSTIN
 P.O. BOX 1088
 Austin, TX 78767
 USA



CHECK IS PRINTED ON SECURITY PAPER WHICH INCLUDES A MICROPRINT BORDER & FLUORESCENT FIBERS

⑈ 460422 ⑆ 124302150 ⑆ 153195061947 ⑆



B. RUSS HORTON

1100 NORWOOD TOWER | 114 WEST 7TH ST | AUSTIN, TX 78701
512.495.1400 | FAX 512.499.0094 | [REDACTED]

June 7, 2017

Via Hand Delivery

City of Austin – Development Services Department
Development Assistance Center – One Texas Center
505 Barton Springs Road
Austin, Texas 78704

Re: Applications for Sign Permits/Digital Sign Face
The Following Addresses:

- 3405 S Congress
- 7301 Burleson Rd
- 1527 1/2 SH 71 E
- 2355 1/2 SH 71 E
- 9127 1/2 IH 35 N
- 13443 N FM 620
- 13301 1/2 US Hwy 183 N
- 1809 Manor Rd
- 308 1/2 IH 35 N
- 400 1/2 IH 35 N
- 410 W 18th St

Dear Sir or Madam:

I write on behalf of Reagan National Advertising of Austin, Inc. to request that the City issue permits for the installation of digital sign faces on the above listed existing sign structures. Enclosed are the permit applications for these locations, which are being submitted in administratively complete form. Reagan has included a separate check with each application. Each of the eleven checks is in the amount of \$85.28. If the City determines that the enclosed applications are not administratively complete, I request that you notify me immediately of such determination and allow a statutorily compliant opportunity to complete the applications.

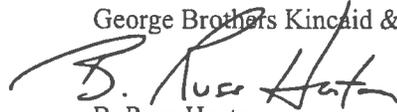
Reagan further asserts, in light the recent authorities of *Reed v. Town of Gilbert, Arizona*, 135 S. Ct. 2218 (2015) and *Auspro Enters, LP v. Texas Dep't. of Transp.*, 506 S.W.3d 688 (Tex. App.—Austin, 2016, pet. filed), that the City review these applications in conformity with the Constitutional constraints precluding the City from limiting my client’s rights of free speech and expression.

Reagan asks that the City review and approve these permit applications in a prompt and reasonable manner. If you have any questions or would like to discuss this issue, please call.

GEORGE BROTHERS KINCAID & HORTON, L.L.P.
PAGE 2

Yours sincerely,

George Brothers Kincaid & Horton, L.L.P.



B. Russ Horton

Enclosures



Development Services Department APPLICATION FOR SIGN PERMIT (PLEASE PRINT)

ONLY COMPLETE APPLICATIONS WITH ALL REQUIRED DOCUMENTS WILL BE ACCEPTED

APPLICATION DATE:

CASE NUMBER:

ADDRESS OF SIGN: 13443 N FM 620		LEGAL DESCRIPTION TAX PARCEL I.D.#: R362192	LOT 1	BLOCK A
SIGN OWNER: Reagan National Advertising of Austin, Inc.		SUBDIVISION:		
SIGN COMPANY: Reagan National Adv.	CONTACT: Doug Lister	PHONE: (512) 926-7740	FAX:	
SIGN COMPANY'S ADDRESS: (ADDRESS/CITY/ST/ZIP) 7301 Burseson Rd, Austin, Tx 78744		EMAIL: [REDACTED]		
PROPOSED ADVERTISEMENT:		ELEVATION (CIRCLE ONE): NORTH SOUTH EAST WEST		

DESCRIPTION OF WORK TO BE DONE: Conversion to electronically controlled changeable-copy sign

----- WALL SIGN (BUILDING, CANOPY, AWNING) -----

SIGN FACE DIMENSIONS:	TOTAL SIGN FACE AREA OF THIS PERMIT:	TOTAL AREA OF EXISTING SIGNS ON FACADE:
DIMENSIONS OF BUILDING FAÇADE (WIDTH X HEIGHT):	ELECTRIC SIGN: YES/NO (NOTE: IF YES, ELECTRIC PERMIT IS REQUIRED BEFORE ISSUANCE OF SIGN INSTALLATION PERMIT)	

----- FREESTANDING SIGN, ROOF SIGN, PROJECTING SIGN -----

SIGN FACE DIMENSIONS: 14' x 48'	TOTAL SIGN FACE AREA OF THIS PERMIT: 672'	TOTAL HEIGHT OF SIGN: As existing
SETBACK OF SIGN? (DISTANCE FROM SIGN TO PROPERTY LINE): 22'	CLEARANCE ABOVE GRADE: As existing	LINEAR FEET OF STREET FRONTAGE: 130'
IS THIS A PAD SITE? YES /NO	ROOF SIGN? YES/NO	ELEC? YES/ NO
REGISTERED BILLBOARD (OFF-PREMISE) SIGN? YES/NO	ELECTRIC SIGN: YES/NO (NOTE: IF YES, ELECTRIC PERMIT IS REQUIRED BEFORE ISSUANCE OF SIGN INSTALLATION PERMIT)	NUMBER OF OTHER FREESTANDING SIGNS ON THIS PROPERTY: 0
WILL PROPOSED SIGN BE LOCATED WITHIN A P.U.E.? YES / NO IF YES, THE HOLDER OF THE PUBLIC EASEMENT MUST BE CONTACTED FOR CLEARANCE		

NOTE: SIGNS MUST MAINTAIN HORIZONTAL AND VERTICAL CLEARANCE OF ALL OVERHEAD ELECTRICAL CONDUCTORS IN ACCORDANCE WITH SPECIFICATIONS OF THE NATIONAL ELECTRICAL CODE, LOCAL CODE AMENDMENTS, AND ALL OTHER APPLICABLE LAWS

(SIGNATURES IN THESE BLANKS INDICATE THAT THE PROPERTY OWNER IS AWARE OF THE APPLICATION FOR A SIGN PERMIT AND THAT ALL OF THE ABOVE INFORMATION IS TRUE AND CORRECT)

William R. [Signature]
SIGNATURE OF SIGN COMPANY REPRESENTATIVE

Darin W. Petru LIC# 19879
SIGNATURE OF LICENSE ELECTRICIAN (REQUIRED FOR ELECTRICAL SIGNS)
AUTHORIZATION FOR SIGN COMPANY TO PULL ELECTRIC PERMIT? YES/NO

DEPARTMENT USE ONLY

PERMIT FEE:	ELECTRIC PERMIT FEE:	PLAN REVIEW FEE:	DATE:	RECEIPT#
GRID:	ZONING:	ENGINEERING SEAL REQUIRED? YES/NO	SIGN DISTRICT:	

REMARKS:

<input type="checkbox"/> APPROVE <input type="checkbox"/> DISAPPROVE	ZONING REVIEW ANALYST:	DATE:
UPDATE SUBMITTAL DATE:	ZONING REVIEW ANALYST:	DATE:
<input type="checkbox"/> APPROVE <input type="checkbox"/> DISAPPROVE		



Development Services Department

SIGN PERMIT PROCESS**SUBMITTAL REQUIREMENTS:**

1. A completed "**APPLICATION FOR SIGN PERMIT**", including legal description* (one application for each sign).
*Travis County Appraisal District 834-9317
2. For all **FREESTANDING SIGNS, ROOF SIGNS & PROJECTING SIGNS**:
 - a. Construction drawing of the sign bearing the seal of an architect or engineer licensed by the State of Texas verifying the structural requirements of SECTION 25-10-192(A).
The drawing **MUST** include:
 - 1) **HEIGHT** of sign
 - 2) **DETAILS & DIMENSIONS** of all structural and nonstructural members to include sign supports,
 - 3) **DETAILS & DIMENSIONS** of foundations and footing members, and
 - 4) **ADVERTISING AREA** of all sign facades
 - b. Complete site drawing **TO SCALE** that **MUST** include:
 - 1) **LOCATION** of proposed sign and **SETBACK DISTANCES** from sign supports to property lines fronting on a street,
 - 2) **LINEAR FEET** street frontage dimensions
 - 3) **LOCATIONS** of all existing **FREESTANDING** signs on the same property,
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3. For all **WALL and AWNING* SIGNS**:
 - a. Construction drawing of the sign. The drawing **MUST** include:
 - 1) **DETAILS & DIMENSIONS** of structural and nonstructural methods of attachment or anchoring to the building,
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 - b. A drawing or photograph of the building façade that **MUST** include:
 - 1) **DIMENSIONS** of the façade and
 - 2) **LOCATIONS and SIZES** of all other signs on the building.

*Building permit for awning must be existing before issuance of awning sign
4. **SIGN REVIEW FEE** (*MUST be paid at time of submittal*):
Wall Signs, Freestanding Signs, Roof Signs:
See Commercial Review and Permit Fees at <http://www.austintexas.gov/department/fees>
5. **SIGN PERMIT FEE** (*paid at the time of permit issuance*):
Sign Permit, Electric Permit, Dev. Svcs. Surcharge:
See Commercial Review and Permit Fees at <http://www.austintexas.gov/department/fees>

SIGN PERMIT INFORMATION:

1. Sign permits may only be issued to Outdoor Advertisers registered and insured with the City of Austin, except as noted in LDC Section 25-10-231.
2. Electrical signs must be permitted in accordance with all applicable codes before the structural sign permit can be finalized (*electrical permits are required for connection of electrical signs*).
3. Any electrical sign permit applications must have the signature of the Master Electrician licensed with the City of Austin.

13443 N FM 620



Legend

- Lot Lines
- Streets
- Building Footprints
- Named Creeks
- Lakes and Rivers
- Parks
- County
- TCAD Parcels
- Lot Line
- Address Points

Easement Annotation

- Easement Lines

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MEMORANDUM

TO: Chair William Burkhardt and Members of the Board of Adjustment
FROM: Christopher Johnson, Development Services Division Manager *CJ*
DATE: October 12, 2017
SUBJECT: Interpretation Appeal Case C15-2017-0051 regarding modification of non-conforming signs

On June 7, 2017, Development Services Department Staff received applications requesting approval for the installation of digital sign faces on 11 non-conforming off-premise signs including the one that is the subject of this appeal. All 11 signs are non-conforming with current sign regulations for the following reasons:

1. Each is an off-premise sign, which have been prohibited in all sign districts since 1983.
2. Each exceeds the maximum allowable height of its respective sign district
3. Each exceed the maximum allowable sign face area of its respective sign district

Sign Location	Sign District	Allowable height	Actual height	Allowable area	Actual area
2355 ½ SH71 E.	Expressway	35'	79'	300-sf	672-sf
3405 S Congress Ave	Commercial	30'	47'	200-sf	300-sf
7301 Burleson Rd	Commercial	30'	60'	200-sf	672-sf
1527 ½ SH 71 E.	Expressway	35'	47'	300-sf	672-sf
9127 ½ IH 35 N.	Expressway	35'	42'	300-sf	672-sf
13443 N. FM 620	Commercial	30'	42'	200-sf	672-sf

13301 ½ US Hwy 183 N	Expressway	35'	42'	300-sf	672-sf
1809 Manor Rd.	Commercial	30'	35'	200-sf	300-sf
308 ½ IH 35 N	Expressway	35'	51'	300-sf	672-sf
400 ½ IH 35 N.	Expressway	35'	51'	300-sf	672-sf
410 W. 18 th St.	Commercial	30'	60'	200-sf	672-sf

Because each sign is a non-conforming sign, modification is subject to the non-conforming sign regulations in Section 25-10-152 of the Land Development Code, which prohibit an *alteration that changes the method or technology used to convey the message* [LDC 25-10-152 (B)(2)(b)].

It is Staff's interpretation of 25-10-152, that the conversion of a sign displaying a static image printed on vinyl, to a sign utilizing a dynamic, digital L.E.D. display, constitutes a prohibited *change in the method or technology used to convey the message*, therefore these applications were disapproved. The appellant is appealing this interpretation and disapproval.

Relevant Code References:

§ 25-10-3 - DEFINITIONS.

- (10) NONCONFORMING SIGN means a sign that was lawfully installed at its current location but does not comply with the requirements of this chapter.
- (11) OFF-PREMISE SIGN means a sign advertising a business, person, activity, goods, products, or services not located on the site where the sign is installed, or that directs persons to any location not on that site.

§ 25-10-102 - SIGNS PROHIBITED IN ALL SIGN DISTRICTS.

Unless the building official determines that the sign is a nonconforming sign, the following signs are prohibited:

- (1) an off-premise sign, unless the sign is authorized by another provision of this chapter;

§ 25-10-123 - EXPRESSWAY CORRIDOR SIGN DISTRICT REGULATIONS.

- (A) This section applies to an expressway corridor sign district.
- (B) This subsection prescribes regulations for freestanding signs.
 - (1) One freestanding sign is permitted on a lot. Additional freestanding signs may be permitted under Section 25-10-131 (*Additional Freestanding Signs Permitted*).

- (2) The sign area may not exceed:
 - (a) on a lot with not more than 86 linear feet of street frontage, 60 square feet; or
 - (b) on a lot with more than 86 linear feet of street frontage, the lesser of:
 - (i) 0.7 square feet for each linear foot of street frontage; or
 - (ii) 300 square feet.
- (3) The sign height may not exceed the greater of:
 - (a) 35 feet above frontage street pavement grade; or
 - (b) 20 feet above grade at the base of the sign.

§ 25-10-130 - COMMERCIAL SIGN DISTRICT REGULATIONS.

- (A) This section applies to a commercial sign district.
- (B) One freestanding sign is permitted on a lot. Additional freestanding signs may be permitted under Section 25-10-131 (*Additional Freestanding Signs Permitted*).
- (F) This subsection prescribes the maximum sign area.
 - (2) For a freestanding sign, the sign area may not exceed the lesser of
 - (a) 0.7 square feet for each linear foot of street frontage; or
 - (b) for a sign other than a multi-tenant sign, 200 square feet; or
- (G) The sign height may not exceed the greater of:
 - (1) 30 feet above frontage street pavement grade; or
 - (2) 6 feet above grade at the base of the sign.

§ 25-10-152 - NONCONFORMING SIGNS.

- (A) A person may continue or maintain a nonconforming sign at its existing location.
- (B) A person may not change or alter a nonconforming sign except as provided in this subsection.
 - (1) The face of the sign may be changed.
 - (2) The sign may be changed or altered if the change or alteration does not:
 - (a) increase the degree of the existing nonconformity;
 - (b) change the method or technology used to convey a message; or
- (c) increase the illumination of the sign.



LAW DEPARTMENT

MEMORANDUM

To: Chair William Burkhardt
Board of Adjustment

From: Brent D. Lloyd 
Assistant City Attorney

Date: October 25, 2017

Subject: **Brief in Support of Development Services Department
Case No. C15-2017-0051 [Reagan National Advertising Appeal]**

Before you now is the above-referenced appeal, filed on behalf of Reagan National Advertising, Inc., which asks the Board to overturn a decision by the Development Services Department (“DSD”) rejecting Reagan’s applications to convert existing off-premise signs into digital billboards.

In support of DSD, we recommend that the Board uphold staff’s decision rejecting these applications on the following grounds:

1. **Billboards are “non-conforming” uses and may not be modified to change the technology used to display a message.**

The City of Austin, like many cities across the state and nation, has prohibited the installation of new off-premise signs since 1983.¹ Off-premise signs, commonly called “billboards,” are signs used to display commercial advertising not directly associated with the property where the sign is located.²

¹ Ordinance No. 831027-L.

² See City Code § 25-10-4(9) (defines “off-premise sign” as “a sign that displays any message directing attention to a business, product, service, profession, commodity, activity, event, person,

Existing billboards, which predate adoption of the 1983 ban, are deemed to be legally “non-conforming” and may continue to be operated subject to certain basic restrictions intended to limit the extent to the signs may be expanded or modified. Of particular relevance to this case is Section 25-10-152(B)(2)(b), which specifically prohibits “chang[ing] the method or technology used to convey a message” on a non-conforming sign.

Since Reagan’s billboards were not digital in 1983, and have never been approved for conversion to digital technology, DSD was correct to deny the applications at issue in this appeal. Accordingly, the BOA should reject the appeal and uphold staff’s decision. To rule otherwise would violate the letter and spirit of this Code provision and impermissibly allow expansion of a non-conforming use.

Additionally, it should be noted that the City Council has previously considered the question of whether to amend Chapter 25-10 (*Sign Regulations*) to allow digital billboards and chose not to do so. While it is Council’s legislative prerogative to reconsider the issue, the BOA cannot amend the Code through interpretation as Reagan’s appeal essentially requests.

2. The BOA does not have jurisdiction over Reagan’s constitutional challenge to the City’s sign regulations, which are lawful under well-established federal and state court precedents.

In asking the BOA to reverse staff’s determination, Reagan argues that the City’s regulation of off-premise advertising is unconstitutional under the U.S. Supreme Court’s decision in *Reed v. Town of Gilbert*, 135 S.Ct. 2218 (2015). Reagan’s arguments on this issue repeat arguments made in its civil suit against the City of Austin, which is currently pending in federal court.

The constitutionality of City ordinances is not within the BOA’s authority to adjudicate, so we ask that the Board decline to address this issue. For the record, however, Reagan’s arguments are legally incorrect for the following reasons:

- In its 2015 *Reed* decision, the Supreme Court invalidated the Town of Gilbert’s sign ordinance on the grounds that the Town of Gilbert’s regulation of non-commercial and on-premise signs were impermissibly tied to the content of the sign in violation of the First Amendment.

institution, or other commercial message which is generally conducted, sold, manufactured, produced, offered, or occurs elsewhere than on the premises where the sign is located.”)

Examples of such “content-based” regulation included categorizing signs as “Ideological” or “Political.”

- The issues in *Reed* did not pertain to off-premise advertising, which the Supreme Court has previously held may be banned altogether or regulated differently than non-commercial or on-premise signs.
- *Reed* did not overturn the Supreme Court’s prior precedents on off-premise advertising or alter the Court’s well-settled jurisprudence on “commercial speech,” which affords commercial advertising a lesser degree of First Amendment protection than noncommercial speech.
- For these reasons, the vast majority of federal and state courts around the country have held that the *Reed* decision does not apply to distinctions between off-premise and on-premise signs. This includes the Austin Court of Appeals, which specifically held in *Auspro v. TxDOT* that the *Reed* case does not affect the regulation of commercial speech or off-premise advertising.

For these reasons, the City’s regulations relating to off-premise advertising are constitutional and not subject to the holding in *Reed v. Town of Gilbert*.

cc Board of Adjustment Members
Lee Simmons
Leanne Heldenfels
Christopher Johnson
Amber Mitchell