



**MILLER STARR
REGALIA**

1331 N. California Blvd.
Suite 600
Walnut Creek, CA 94596

T 925 935 9400
F 925 933 4126
www.mslegal.com

Dana Kennedy
Direct Dial: 925.638.4802
dana.kennedy@mslegal.com

October 31, 2023

VIA EMAIL

Humboldt County Planning Commission
c/o Kathy Hayes, Humboldt County Clerk of the Board
825 5th Street, Room 111
Eureka, CA 95501
Email: planningclerk@co.humboldt.ca.us

Re: [Proposed Sign Ordinance \(File No. 23-1484, Agenda Item No. 2 for Hearing on November 2, 2023\)](#)

Dear Ms. Hayes:

This firm represents OUTFRONT Media. We reviewed File No. 23-1484, including the draft regulations that would comprehensively update the standards for signs in the zoning ordinance (the “Proposed Signage Regulations”). We understand the Planning Commission will consider the Proposed Signage Regulations as Agenda Item No. 2 at a public hearing scheduled for November 2, 2023.

The Proposed Signage Regulations conflict with state law in several important respects, each of which is outlined briefly below. As a result, we urge you to carefully consider and revise the draft before it moves forward. Please understand that we are tracking this legislation closely, and we are prepared to take legal action if you proceed with regulations that would interfere with our client’s state-protected property rights.

The Proposed Signage Regulations Must Appropriately Account for Legal Nonconforming Billboards.

As a general matter, the Proposed Signage Regulations do not contemplate the many billboards in Humboldt County that were lawfully erected before the Outdoor Advertising Act was enacted. These long-standing signs are legal nonconforming and protected by the Outdoor Advertising Act’s compensation requirements to the same extent as signs later erected subject to an Outdoor Advertising Display Permit.

For example, the Proposed Signage Regulations purports to empower the County to require removal of an existing billboard without “an active and compliant Outdoor Advertising Act Permit.” This language – and any effort by the County to enforce the same – is contrary to Section 5412 of the California Business and Professions Code,

which established a general rule that a local agency cannot compel removal of advertising displays without payment of just compensation to the owner of the display and the owner of the land where it is located. Cal. Bus. & Prof. Code Sec. 5412. This is true of all “lawfully erected” displays, “anywhere within the state,” without reference to an active permit.

The County Must Pay Just Compensation for Any Forced Removal or Maintenance Limitation on Existing Displays.

The Outdoor Advertising Act is unambiguous: Subject to limited exceptions, “no advertising display which was lawfully erected anywhere in the state shall be compelled to be removed, nor shall its customary maintenance or use be limited...without payment of compensation, as defined in the Eminent Domain Law.” Cal. Bus. & Prof. Code Sec. 5412.

The Proposed Signage Regulations violate this rule in several ways:

- There is no mechanism for the just compensation to sign owners and property owners mandated by state law and anticipated by the County’s own General Plan.
- Maintenance would be strictly limited by introducing requirements that owners first seek Zoning Clearance Certificates and Special Permits. This introduces additional expense, lead time, and most importantly, uncertainty – each of which would individually constitute a proscribed limit on owners’ state-granted right to maintain existing signs.
- Restabilization of existing signs would “not be permitted,” under the draft regulations, creating yet another unlawful limit on the maintenance of existing displays.

If the County wishes to proceed with some version of these controls, it must build in clear definitions for each activity and provide explicit mechanisms for the land owner and sign owner to both receive just compensation every single time the County compels removal of a lawfully erected sign or limits their ability to maintain an existing sign.

As you may be aware, Division 6 of Title 4 of the California Code of Regulations was adopted to “implement, interpret, make specific, and otherwise carry out the provisions of the California Outdoor Advertising Act, Business and Professions Code Sections 5200, et seq.” This division includes a specific definition of “customary maintenance,” with related activities allowed for the duration of a display’s “normal life.” Cal. Code Regs. Sec. 2270. Therefore, nothing in the final version of the Proposed Signage Regulations can purport to limit a sign owner’s ability to perform activities in furtherance of customary display maintenance.

As an aside, please note that I wrote to the County this past spring and specifically asked to be kept apprised of Proposed Signage Regulations as the legislation proceeded. I never received a response to my letter and was not notified by the

County of the November 2 hearing. Further, I am aware of several public comments shared with John Ford, Director of Planning and Building, and Jacob Dunn, Associate Planner that were not included in the Commissioners' materials for the November 2 hearing. I sincerely hope that the substance of all public comments received to date will be shared with decisionmakers before the County proceeds in a manner that is contrary to state law.

Please don't hesitate to contact me with any questions.

Very truly yours,

MILLER STARR REGALIA

Dana Kennedy

Dana Kennedy

DCK:kli

cc: Commissioner Iver Skavdal (skavdalz11@gmail.com)
Commissioner Thomas Mulder (hrh707@outlook.com)
Commissioner Noah Levy (noah@landwaterconsulting.com)
Commissioner Lonyx Landry (lonyx.landry@humboldt.edu)
Commissioner Peggy O'Neill (Peggyoneill1953@gmail.com)
Commissioner Brian Mitchell (mrbrian707@gmail.com)
Commissioner Sarah West (srhawest@gmail.com)
Jeff McCuen, OUTFRONT Media
Anthony Leones, Miller Starr Regalia