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September 10, 2020

**Via Email Only**

Commissioner Larry Doss  
Commissioner Greg Dale  
Commissioner Stephen Kullmann  
Commissioner Richard Marks  
Commissioner Patrick Higgins  
Executive Director Larry Oetker  
Humboldt Bay Harbor, Recreation and  
Conservation District

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Re: Item 10 a) of the September 10, 2020 Meeting Agenda to Consider Amending Ordinance 7 Article IV, Section 9(f) and Sections of the Humboldt Bay Management Plan to Clarify the Regulatory Standards for Signs and Related Structures

Dear Commissioners and Executive Director:

I represent Outfront Media LLC (“Outfront”), which owns and operates several outdoor advertising signs (“Signs”) in and around the Humboldt Bay area and hereby submit this comment and objection regarding the item referenced above on behalf of Outfront.

It is our understanding that the Humboldt Bay Harbor, Recreation and Conservation District (the “Harbor District”) Staff is prepared to recommend various amendments that will impact Signs located within the Harbor District’s jurisdiction. The proposed amendments include the prohibition of any new Signs, the establishment of illegal versus nonconforming Signs, the elimination of all Signs by January 1, 2026, regulations regarding the continued use and advertising copy changes and the requirement to obtain a permit for maintenance, repair and reconstruction.

The proposed amendments violate the State’s Outdoor Advertising Act (Business and Professions Code Sections 5200 et seq. and California Code of Regulations Title 4, Section 2240 et seq.), Eminent Domain Law, federal statutes, and the California and United States Constitutions.

Specifically, section 5412 of the Outdoor Advertising Act, which governs the payment of just compensation and codifies important constitutional principles, provides in pertinent part that:

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[N]o sign that *was* lawfully erected *anywhere* within the state *shall be compelled to be removed*, nor shall its customary maintenance or use be limited, whether or not the . . . limitation is pursuant to or because of this chapter or any other law, ordinance, or regulation, *without payment of just compensation as defined in the Eminent Domain Law . . . .*

This section applies to all displays which were lawfully erected in compliance with state laws *and* local ordinances in effect when the displays were erected if the displays were in existence on November 6, 1978, or lawfully erected after November 6, 1978, *regardless of whether the displays have become nonconforming or have been provided an amortization period.*

(Emph. added; see also 23 USC § 131(g) [“just compensation shall be paid upon the removal of *any* outdoor advertising sign,” emph. added, potentially giving rise to federal claims].)

Section 5216.1 of the Outdoor Advertising Act defines lawfully erected as:

[A]dvertising displays which were erected in compliance with state laws and local ordinances in effect at the time of their erection or which were subsequently brought into full compliance with state laws and local ordinances, except that the term does not apply to any advertising display whose use is modified after erection in a manner which causes it to become illegal. There shall be a rebuttable presumption pursuant to Section 606 of the Evidence Code that an advertising display is lawfully erected if it has been in existence for a period of five years or longer without the owner having received written notice during that period from a governmental entity stating that the display was not lawfully erected.

Title 4, Section 2270 further provides, in pertinent part, as follows:

“Customary maintenance” means any activity performed on a Display for the purpose of actively maintaining the Display in its existing approved physical configuration and size dimensions at the specific location approved on the application for State Outdoor Advertising Permit, or at the specific location officially recorded in the records of the Department for a legally placed Display, for the duration of its normal life.

(a) Customary maintenance includes the following activities:

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- (1) Changing of the advertising message.
- (2) Adding an Extension to an outside dimension of a Display as incident to the copy for a temporary period up to three years.
- (3) The sale, lease, or transfer of the Display or its Permit.
- (4) Adding a Light Box.

The proposed amendments unlawfully compel the removal of Signs following an amortization period, limit the use and maintenance of Signs and alter the legality and conformity of Signs without the payment of just compensation and in violation of the law and direct conflict with the Outdoor Advertising Act, including the Sections of the Outdoor Advertising Act referenced above.

The Harbor District cannot lawfully establish an amortization period whereby Signs must be removed by January 1, 2026 without the payment of just compensation; cannot establish its own rules and regulations in conflict with the Outdoor Advertising Act regarding the standards of legality and conformity of Signs; and cannot limit the customary maintenance or use of Signs, including, but not limited to, prohibit or limit customary repairs or the changing of advertising copy, without the payment of just compensation.

Based on the law and reasoning set forth above, Outfront demands that the Harbor District reject the proposed amendments and direct the Harbor District Staff to prepare amendments consistent with the Outdoor Advertising Act, Eminent Domain Law, federal statutes and the California and United States Constitutions.

Very truly yours,

MILLER STARR REGALIA



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AML:sls

cc: Jeff McCuen