



Dear Robert,

Thank you for the opportunity to participate in the March 22, 2017 public meeting and review of the proposed Surprise Sign Ordinance.

WeMAR appreciates the work that has gone into amending the sign ordinance and continues. It is our hope the remarks below will be of help and value as you and your staff go forward.

We were struck with surprise when we read pages 5&6. These two pages seem overly aggressive in their position that signs are undesirable and have only negative impacts. We believe signs are more properly treated as free speech, rather than land use, since they are a form of communication.

We are concerned that while sign walkers and political signs are not addressed by the proposed ordinance because of state laws, there may overlap in court interpretation, particularly the ability for the city to differentiate between commercial speech and political speech without discriminating based on content and/or speaker, and the posting of signs in the public right of way.

In general, we are concerned that permits are required for all signs. Since signs are a form of speech, this amounts to permitted speech which has been struck down by the courts.

Signs are still the most cost effective and least expensive method for businesses to advertise the goods and services they provide, as well as their location. Property owners wishing to sell personal or real property depend on signs to advertise the sale, and guide those interested to the property.

Individuals who start a business place their finances, savings, homes, assets and their family's future at stake. These individuals believe they can provide a product or service the market is interested in and willing to pay for, these businesses will fail if no one knows what they do, where they are or who they are. As an economic development issue and a free speech issue, this is of concern.

Property owners attempting to sell or lease their property will experience difficulty and time delays if they are limited to inadequate signage. Some properties will require very few signs to guide potential customers, other properties will require several signs. Inadequate signage frustrates real estate agents, property owners, neighbors and potential buyers. We suggest adequate signage for the task be the guide. For residents attempting garage sales, open houses or estate sales, inadequate signage will mean they are unable to conduct a successful sale.

As to the question of temporary sign glut along main streets, Justice Alito suggested limiting the number of signs displayed by defining a particular number of signs allowed within a particular number of miles or feet. These limitations would need to be appropriate to the location of the property and street access. For example, a two-lane rural street may find adequate signage at a particular number of signs per $\frac{1}{4}$ or $\frac{1}{2}$ mile. A busy suburban street may find adequate signage at a particular number of signs per feet of roadway or front footage.

Several small business owners and Ginger Zilk (branch manager at West USA Realty) spoke to A-frame signs outside their business on Bell Rd bringing in customers. One small business owner said he experienced 4-6 customers/day coming in from his A-frame sign at the driveway entrance to the shopping center he is located in. The small business owner of a Gelato shop stated her concerns that not having her one A-frame sign would have an adverse effect on her business. Both small business owners voiced concern that inadequate signage and an inability to post an A-Frame sign will mean they will be forced to close their businesses before the end of the year.

Ginger stated her office recorded 57 walk-ins' in 2016. People who found West USA Realty from driving by and seeing the A-frame sign at their entrance. That doesn't count members of the public who came by to get more information about Surprise, but did not purchase. Several real estate agents saw the A-frame sign, chose to drop in and eventually work, at West USA Realty in Surprise as well. West USA estimates each house they sell contributes \$46,000 to Surprise in ancillary business (escrow, inspectors, appraisers, other services). That amounts to \$2,622,000.00 in ancillary business and does not include the economic impact after escrow closes to area businesses and property taxes.

While West USA Realty is a large brokerage, each real estate agent is an independent contractor. They are the smallest of small business. Inadequate signage does not allow agents to advertise properties for lease or sale, and limits their ability to direct potential buyers or tenants to the property. This will restrict the ability of licensed real estate agents to conduct their business and serve their clients.

Studies from USD (University of San Diego) and the University of Cincinnati have shown adequate signage is a significant component of business success, no matter how big the business. They found a strong correlation between number of signs and sales increases, as well as transaction amount increases.

A small A-frame directional sign contributes 10% to weekly sales. The addition of one building sign contributed an increase of 4.75% to sales. For \$500,000 of income, that translates to about a \$23,750 increased. Increased income adds to the amount of sales tax the city receives. The USD study found 68% of customers used signs to find the business and were frustrated when they could not find a business because of inadequate signage. Surprise has several businesses located in retail, medical or industrial complexes with limited signage to the street and passersby.

We question the compelling government interest of limiting building signage, particularly on buildings facing more than one street or buildings that are part of an office/industrial complex. Building signage and directional signage should be adequate so as to allow patrons to easily identify the building and direction of travel they must follow to arrive safely and in a timely manner to their destination. We question the compelling government interest in limiting directional signage inside commercial and residential development.

In the public meeting, we asked why the difference between flagpole sizes for residential private parties versus residential model homes. On the surface this appears to discriminate based on the speaker. We were told it is a safety issue based on size of the lot and the fall arc of the flagpole. We suggest this restriction be articulated based on the safety issue, not the person.

We discussed the legibility and visibility of signs and the need for public safety reasons, as well as business reasons, to establish **minimum** sign sizes based on science of the visual arc, legibility and visibility. Busy streets with several lanes will need larger signs than small streets with little traffic.

In the proposal, temporary signs must all have the name and contact information of the person placing the sign. We suggested this statement be amended to read "person or entity" since the Designated Broker (DB) or Managing Broker is the responsible party in supervision of all real estate agents, and the broker is in the best position to make sure the offending sign is taken care of quickly.

Arizona State law already requires real estate brokerage signs on property listed for sale or lease, display the brokerage name and contact information. Requiring the agent name and contact number may not be possible with the limited sign space allocated by the proposed sign ordinance. An additional concern is that sign riders will not be possible under this code. Sign riders alert potential buyers not only of amenities, but legally required notifications such as agent owned property.

In the proposed ordinance, banner signs are limited to commercial districts only. We asked that this be amended to allow banner signs in residential areas as well. Frequently property owners will post a "New Baby", "Welcome Home" to the Military (or other family member), "Just Married", or some other personal message for a short period of time. We question the compelling government interest in limiting this speech. Personal property rights and free speech rights may be abridged with the proposed limitation.

In the meeting, we expressed concern and asked for clarification on Building Mounted Signs, item #1. We are concerned that businesses with more than one business under one roof will not have adequate signage. Example: Grocery store with a bank and a Starbucks, or a real estate brokerage with a title company or lender.

We are likewise concerned for the limit of window (40%) allowed for window signs. The window is part of the building the business either leases or owns. Many businesses express specials or product to the public with window signs. We question the compelling government interest in regulating this. Because sunscreens are allowed 100% of window space, the 40% limit appears to be arbitrary.

In Section 113-09 (Sign Illumination) we are concerned that limited visibility of the sign at night will create a public safety hazard and injure businesses who are unable to have visible and legible signage at night. The term "environmentally sensitive areas" is a legally specific term. It is our understanding from City comments at the meeting, that the City of Surprise has no legally recognized "environmentally sensitive areas" and therefore this term may be used in an arbitrary fashion.

We expressed our concerns on the Comprehensive Sign Program (CSP). The criteria specify the sign must be "appropriate to the character of the community". We are concerned this is an arbitrary measure. We are further concerned by item D and ask: How will the CSP measure and demonstrate a sign represents a "measurable improvement" to the community, is "appropriate to the character of the development", and that it is "appropriate to the neighborhood"? This appears to be an arbitrary measure and most likely will be determined by content or identity of the speaker.

The limitations for Non-Conforming signs is of concern to us as well. The methodology suggested is amortization. Signs are an expression of the business' identity and branding. Frequently customers will recognize a shape and color before reading the sign. Some signs have no words at all (example: McDonald's).

Signs are a business owner's expression of their business character and identity. The business "good will" that is part of the sign value, is in addition to the amortization and depreciation of the physical sign structure and frequently adds to the value of the business. We are concerned this proposal will essentially be a government taking without compensation and therefore unconstitutional. We further question the narrow government interest and constitutionality in mandating a business change their branding identity.

We are concerned the term "abandonment" of a sign is not defined and therefore subject to arbitrary determination. We are concerned the 90-day limit is unreasonable under special circumstances such as estate sale, bankruptcy, owner health issues, complicated and prolonged business sale or other circumstances in which a sign and business are not abandoned, but rather caught up in a process of property transfer outside their control.

Causing a well-recognized sign to be taken down would immediately devalue the business and the property it is located on, causing harm to the ownership interest. This could be argued as an unconstitutional government taking.

We are concerned about the enforcement provision. Charging a business owner who violates the sign ordinance with a criminal violation, punishable by jail, seems overly zealous and increases the risk of opening a business in Surprise. We ask the enforcement provision be much less injurious to the business owner and more appropriate to the nature of the violation.

We are further concerned with the apparent lack of due process afforded accused sign ordinance offenders. Nowhere in section 113-16 is a mechanism provided in which the accused sign owner may protest the notice of violation or protest the fine involved. The only method open to the sign owner is suing the City in court.

The automatic discarding of the City removed sign within 5 business days does not appear to give the sign owner adequate time to receive due process. The short time period does not allow adequate time for court proceedings, and therefore appears to be a government taking of property without compensation.

We hope you find these comments helpful. Thank you for the opportunity to provide input on the proposed sign ordinance.

Sincerely,



Liz Recchia
West Maricopa Association of REALTORS®
Government Affairs Director
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