INTERPRETATION OF THE DIRECTOR
PURSUANT TO TITLE 23 OF SEATTLE MUNICIPAL CODE

In the Matter of	)	
the Use of the	)	Interpretation
Property at	)	No. 07-004
2038 – Westlake Avenue	)	

Background

This interpretation was requested by Clear Channel Outdoor ("CCO"), a billboard advertising company. The Seattle Land Use Code provides that new, off-premises advertising signs, or billboards, may be erected only upon removal of another lawful, existing off-premises advertising sign located in certain sites or zones. An existing sign generally qualifies for "relocation" under the Code only if it is "located on a site or in a zone where it is not permitted," per Seattle Municipal Code (SMC) Section 23.55.014 A 1 b. SMC Section 23.55.014 A 5 says in part that advertising signs must be located at least 500 feet from any "community center." An existing sign owned by CCO, located on a small parking lot with the approximate address of 2038 Westlake Avenue, is within 500 feet of a site occupied by the Washington Talking Book and Braille Library, which is a branch of the Seattle Public Library system. The question raised for interpretation is whether the Washington Talking Book and Braille Library is a "community center" for purposes of Section 23.55.014 A 5. If so, the CCO billboard would qualify for relocation under Section 23.55.014 A 1 b as a sign that does not conform to a development standard regulating the location of billboards.

Findings of Fact

1. The subject sign is located on a property addressed in Department of Planning and Development (DPD) records as 2038 Westlake Avenue. It is described as Lots 7 and 8, Block 13, Heirs of Sarah A. Bell's Addition, less that portion condemned for Westlake Avenue. The property is developed with surface parking and the existing CCO billboard structure, which is constructed adjacent to the north side of the building to the south, addressed as 2015 8th Avenue. The property will hereafter be referred to as Lots 7 and 8.

2. According to the DPD "Arcview" land use map, Lots 7 and 8 are zoned DOC 2 500'/300'-500': Downtown Office Core 2, with a structure height limit of 500 feet for portions of a structure containing nonresidential and live-work uses and a height limit between 300 and 500 feet for structures containing residential uses.

3. According to DPD permit records, permission was granted to construct the sign on Lots 7 and 8 under Seattle Sign Permit No. 11911, issued October 3, 1986. There is one lawful sign face, City Registration No. 283, for a single-faced pole sign 46 feet in height at 2038 Westlake Avenue.

4. In November 2006, CCO applied for a sign permit, No. 6120608, to demolish the sign structure at 2038 Westlake Avenue. According to CCO's letter requesting the subject interpretation, the application requested nonconformity status for the existing sign structure and pendency for billboard registration number 283. On January 24, 2007, DPD Sign Inspector Kent Hunnicutt sent CCO representative Adam Peterson an e-mail denying pendency. Mr. Hunnicutt stated in stated in his e-mail that the subject sign was conforming and therefore it had no relocation rights. CCO responded by filing the request for this interpretation.

5. SMC Section 23.84A.004 provides in part as follows:

   "Billboard. See sign, advertising."

   The term "sign, advertising," is also defined in Section 23.84A.036 as follows:

   > ". . . a sign directing attention to a business, profession, commodity, service or entertainment conducted, sold or offered elsewhere than upon the lot where the sign is located."

   The term "sign, off-premises," is defined in Section 23.84A.036 as follows:

   > ". . . a sign relating, through its message and content, to a business activity, use, product or service not available on the premises upon which the sign is erected."

6. SMC Section 23.55.034 sets forth the regulations for signs in the Downtown zones. Subsection E says, in part:

   > "2. Off-premises directional signs and advertising signs, in addition to those permitted by subsection E1, shall be permitted according to Section 23.55.014, Off-premises signs."

7. SMC Section 23.55.014 sets forth general standards for off-premises signs in all zones, including the Downtown zones. Subsection 23.55.014 A provides in part as follows:

   > "A. Advertising Signs.
   >
   > 1. No advertising sign shall be erected, or constructed, unless an existing advertising sign is relocated or reconstructed at a new location. An advertising sign may be relocated or reconstructed if:

a. The existing advertising sign was lawfully erected and after the effective date of the ordinances codified in this section, is registered to pursuant to subsection F of this section;

b. The advertising sign is located on a site or in a zone where it is not permitted, except as provided in subsection A1c of this section;

c. In each calendar year one advertising sign which is located on a site or in a zone where it is permitted may be relocated or reconstructed if a citizen submits a written request for relocation to the Director;

. . . .

5. All advertising signs shall be located at least fifty feet (50') from any lot in a residential zone, and at least five hundred feet (500') from any public school grounds, public park, or public playground, or community center. For purposes of this section, a public park or public playground means a park or playground at least one (1) acre in size and a community center must be publicly owned."

Subsection 5 was first enacted in 1986 with respect to public schools, parks, and playgrounds, and required advertising signs to be located 100 feet from them. Community centers were added under Seattle City Ordinance No. 116780, effective August 21, 1993. Ordinance 116780 also amended the setback requirement from 100 feet to 500 feet.

8. The Washington Talking Book and Braille Library uses the address of 2021 9th Avenue as its business address, according to information on the Seattle Public Library website. According to DPD permit records, the "Washington Regional Library for the Blind" was established on Lots 2, 3, 4, 7, 8, 9, and 10, Block 25, Heirs of Sarah A. Bell's 2nd Addition, under Seattle Building Permit No. 607929, issued August 1, 1983. Permit 607929 cites the established uses of the property as a "library" on the first floor level. Permit 607929 was given final approval by a City Building Inspector on March 2, 1984, and a Certificate of Occupancy was issued March 14, 1984. There are various other permits for alterations and change of use to the buildings on Block 25, Heirs of Sarah A. Bell's 2nd Addition. No permit indicating a "community center use" for any of the structures on this block was discovered in DPD permit records.

9. According to the Seattle Public Library internet home page, the Washington Talking Book and Braille Library is a branch of the Seattle Public Library system. Documentation about the Washington Talking Book and Braille Library enclosed by CCO with its request for this interpretation also refers to the Washington Talking Book and Braille Library as a library, as does the Washington Talking Book and Braille Library website itself.

10. The term "library" is defined in the Land Use Code, as is the term "community center." These terms are included under the broader definition of "institution" in SMC Section 23.84A.018 as follows:

> " 'Institution' means structure(s) and related grounds used by organizations for the provision of educational, medical, cultural, social and/or recreational services to the community, including but not limited to the following uses:
>
> . . .
>
> 3. 'Community club or center' means an institution used for athletic, social, civic or recreational purposes, operated by a nonprofit organization, and open to the general public on an equal basis. Activities in a community club or center may include classes and events sponsored by nonprofit organizations, community programs for the elderly, and other similar activities.
>
> a. 'Community center' means a community club or center use, providing direct services to people on the premises rather than carrying out only administrative functions, that is open to the general public without membership."
>
> . . .
>
> 8. 'Library' means an institution where literary, musical, artistic or reference materials are kept for use but not generally for sale."

11. SMC Chapter 23.44, regulating permitted, conditional and prohibited uses in single-family zones, uses the terms "community center" and "library" as follows:

> "**23.44.022 Institutions**
>
> 'A. Institutions Identified. The following institutions may be permitted as conditional uses in single-family zones:
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> Community centers
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> Child care centers
>
> Private schools
>
> Religious facilities
>
> Public or private libraries
>
> Existing institutes for advanced study
>
> Other similar institutions
>
> The following institutions are prohibited in single-family zones:

Hospitals

Colleges and universities

Museums

Private clubs

Vocational schools"

12. Section 23.55.001 sets forth the intent of the sign regulations. It says, in part:

"The intent of the standards in this chapter [23.55] is:

A. To encourage the design of signs that attract and invite rather than demand the public's attention, *and to curb the proliferation of signs*; . . ." [Emphasis Added.]

. . .

D. To protect the public interest and safety; . . ."

The preamble to Seattle City Ordinance No. 116780, effective August 21, 1993, and limiting new off-premises advertising signs and relocation of existing off-premises advertising signs, also says, in part:

". . . because the proliferation and location of billboards in the City can contribute to visual blight, traffic hazards and a reduction of property values, it is in the public interest to further regulate the spacing, dispersion, height, size, location and relocation of billboards . . . ."

Conclusions

1. The sign structure located on Lots 7 and 8 is legally established by permit and registered as a single-faced off-premises advertising sign structure. (Findings of Fact Nos. 1 and 3.) Lots 7 and 8 are located in a Downtown Office Core 2 (DOC 2) zone, where off-premises advertising signs are permitted pursuant to SMC Section 23.55.034 E, subject to the development standards of Section 23.55.014. (See Findings of Fact Nos. 6 and 7.)

2. Section 23.55.014 A establishes a standard prohibiting construction of a new sign unless an existing sign is "relocated or reconstructed at a new location." The regulation then sets standards explaining when existing signs may be relocated, which includes the requirement in Section 23.55.014 A 1 b that the existing sign be "located on a site or in a zone where it is not permitted." Since CCO proposes to relocate the sign face now located on Lots 7 and 8, it must demonstrate compliance with subsection A 1 b. CCO does not dispute that off-premises signs are permitted in the

DOC 2 zone. Instead, CCO contends that the sign structure is located on a site where it is not permitted under Section 23.55.014 A 5, which requires in part that all off-premises signs be located at least 500 feet from any community center (further stating that the community center must be publicly owned). (See Findings of Fact Nos. 4 and 7.)

3. To support its argument that the sign on Lots 7 and 8 is on a site where it is not permitted, CCO argues that the Washington Talking Book and Braille Library is a type of "community center." It is undisputed that the sign on Lots 7 and 8 is within 500 feet of the site. (See Finding of Fact No. 8.) Thus, the sole issue is whether the Washington Talking Book and Braille Library is a "community center." The DPD permit records and the descriptions provided by the Washington Talking Book and Braille Library on its own website (Findings of Fact Nos. 8 and 9) clearly show that the Washington Talking Book and Braille Library is regarded as a special branch library of the Seattle Public Library system.

4. Libraries are separately defined and distinguished from community centers in the Code definitions (Finding of Fact No. 10.) Based on literature prepared by the Washington Talking Book and Braille Library and provided to DPD by CCO itself in its request for interpretation, it is undisputed that the Washington Talking Book and Braille Library contains a collection of books, audiotapes, and other materials "for use but not generally for sale," which is exactly the function of a library as defined in SMC Section 23.84A.018. While the Washington Talking Book and Braille Library may also provide other services such as classes and reading forums, CCO has presented no evidence to suggest that such services are unique to the Washington Talking Book and Braille Library as opposed to other libraries in the City of Seattle system or elsewhere in the state. There is no evidence that the activities at the Washington Talking Book and Braille Library are primarily focused on "classes and events sponsored by nonprofit organizations, community programs for the elderly, or similar uses," as contemplated by the definition of "community center."

5. Libraries are a different use than community centers. While this conclusion seems plain just from the definitions in the Code, it is also plain from the classification of libraries and community centers as different types of institutions found in the Code. For example, the listing of permitted institutions in Single Family zones at Section 23.44.022 includes both community centers and libraries. (See Finding of Fact No. 11.) If they were the same institutional use, the separate listing would not be necessary.

6. As set forth in SMC Section 23.55.001 A, one purpose of the sign standards is to curb the proliferation of signs. The preamble to City Ordinance No. 116780 also states that it is in the public interest to further regulate location and relocation of billboards (off-premises signs). (See Finding of Fact No. 12.) Since location of an off-premises sign within 500 feet of a "community center" is a basis for allowing relocation of a nonconforming sign, a restrictive definition of "community center" rather than an expansive definition would most closely adhere to the policy intent of the sign regulations to limit the number of off-premises signs.

6. The preamble to Ordinance No. 116780 further notes that the proliferation and location of billboards can contribute to visual blight and traffic hazards. With respect to community centers, billboards could pose a potential hazard by distracting drivers near these institutions. Thus, the sign regulations in Section 23.55.014 provide an incentive to relocate nonconforming signs that are near community centers. Traffic safety concerns are less important near a library, which presumably attracts fewer users at any given time than a community center sponsoring various events and activities.

DECISION

The sign structure located at 2038 Westlake Avenue is permitted on its site in the DOC 2 zone. The sign is not located within 500 feet of a community center, as the nearby Washington Talking Book and Braille Library is a specialized branch library, which is defined as a separate type of institutional use from a community center under the Land Use Code. Since the sign structure is permitted on the subject site and in the zone under the code, it is not eligible for relocation to another site.

Entered this 29th day of November, 2007.

(signature on file).
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Department of Planning and Development

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