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General Advertising Sign Program
Fifth Annual Report

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Planning Code Section 604.2(h) requires that the Planning Department submit to the Planning Commission and Board of Supervisors an annual report on the Department's General Advertising Sign Program (GASP) that includes revenues, expenditures, and a progress report on the program's activities. The last report was presented to the Planning Commission on February 24, 2011. This is the fifth annual report and covers the period from February 1, 2011 to March 15, 2012.

The GASP resulted from legislation passed in 2006 which amended the Planning Code to provide for improved monitoring and enforcement of general advertising signs – also known as billboards or outdoor advertising signs. The primary goals of the program are to build and maintain an inventory of all general advertising signs in San Francisco, to correct outstanding sign-related Planning Code violations, and to remove unlawful signs. The GASP's activities are best understood in the context of 2002's Proposition G which passed with 78 percent of the vote and prohibited all new general advertising signs within San Francisco.

1. HIGHLIGHTS OF THE PAST YEAR

- After completing initial enforcement action on all signs in the inventory during the last reporting period, GASP activities were incorporated into those of the Department's general Code Enforcement team with reduced staffing and with a primary focus on maintaining the City's general advertising sign inventory and targeting new violations.
- Policies and procedures for the handling of sign relocation applications, as set forth in the Planning and Administrative Codes, was developed, whereby legal general advertising signs may be relocated subject to approval by the Board of Supervisors and the Planning Commission.
- A settlement agreement was finalized between Fuel Outdoor and the City, effective February 15, 2012, which concluded the longest-running legal matter in which the GASP has been involved. It is expected to be implemented over the next year, resulting in the removal of 48 illegal signs, the receipt of substantial penalties, and the relocation of a number of legal signs.
- 66 signs were the subject of new complaints, including 40 newly installed illegal signs and 26 signs that fell out of compliance with the Planning Code (e.g. illegal expansions, added lights, missing placards or abandoned signs).
- 145 signs were removed during the past year, bringing the program total to 733 signs removed over five years.

- 9 Requests for Reconsideration of Notices of Violation (NOV's) were completed, of which two were heard and upheld, while the remaining 7 were either withdrawn by the applicant or had the NOVs rescinded by the Department.
- $178,000 in penalties was collected in the past year, compared with $91,000 in the year prior.

2. PROGRAM BACKGROUND

In mid-2006 legislation enabling the GASP was adopted. As a part of that legislation, sign inventories and authorizing permits were requested from all sign companies doing business in the City. In addition to the various sign company inventories, in 2007 the GASP independently surveyed and documented every general advertising sign in San Francisco. The GASP inventory continues to be updated as new unlawful signs are detected.

As part of the original submittal required from each sign company, a special process was created whereby signs for which no permit could be located were afforded the opportunity to seek an "in-lieu" identifying number in order to establish the legal nonconforming status of the sign. An in-lieu number could only be issued when the sign was determined to be "likely legally authorized."

General Advertising Signs in San Francisco (n=860)

At the start of 2008, the 'processing' of the overall sign inventory began. This undertaking involved examining individual signs on a case-by-case basis to (1) verify compliance with the Planning Code and any authorizing permits and (2) initiate the abatement of any Code violations. Signs were processed primarily based on geography, with priority given to new complaints and violations brought to the GASP's attention by other permit activity on the site of an alleged violation.

When a sign is found to be in violation of the Planning Code, a Notice of Violation (NOV) is issued to both the property owner and – when known - the sign company (together the "responsible party"). The responsible party then has 30 days to either: (1) remove the sign, (2) correct the violation, or (3) file a Request for Reconsideration of the NOV, as discussed below. On the 31st day after issuing the NOV, should the responsible party not availed itself of one of these options, daily penalties begin to accrue based on the size of the sign. Penalties range from $100 each day for signs smaller than 100 square feet to $2,500 each day for signs larger than 500 square feet.[1]

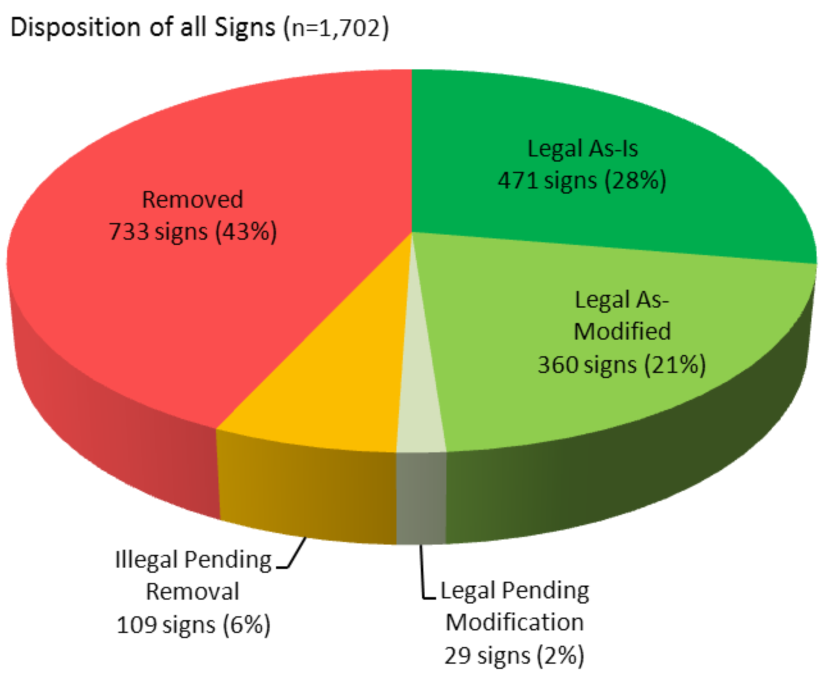
[1] Planning Code Section 610(b)(2)(B) contains a sliding scale of penalties based on the size of a sign: 100 square feet or less - $100/day; 101 to 300 square feet - $1,000/day; 301 to 500 square feet - $1,750/day; over 500 square feet - $2,500/day.

Should the responsible party file a Request for Reconsideration, a hearing on the NOV is scheduled before an Administrative Law Judge (ALJ). This hearing affords a responsible party the opportunity to present evidence demonstrating why an NOV was issued in error. If the ALJ overturns an NOV, the case is closed and any penalties are voided. If the ALJ upholds an NOV, the violation is required to be abated and, if advertising copy remains during the Reconsideration process, a mandatory twenty-day fixed penalty based upon the size of the sign is assessed. ALJ decisions are not subject to further administrative appeals, but can be appealed to the courts.

The GASP continues to receive reports of new signs and new violations with respect to existing signs. On an ongoing basis, Staff investigates the alleged violations and initiates the enforcement process where appropriate. Through this process, additional NOV's are issued and subsequent ALJ hearings can occur.

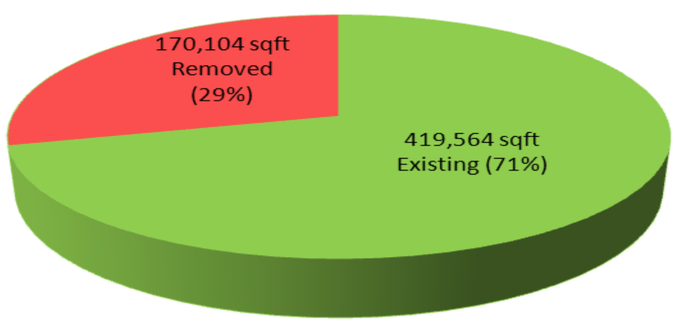
3. ANNUAL PROGRESS

In December 2010, the GASP completed processing all general advertising signs in the GASP inventory at that time. A 'processed' sign is one that has been: (1) determined to be legal as is, (2) found to exceed the scope of its permit and subsequently modified to comply with the Code, (3) the subject of an NOV for which modification is pending, (4) determined to be illegal and pending removal, or (5) permanently removed.



Overall Outcomes. There are 1,702 signs in the inventory as of the date of this report.[2] Of these signs, 860 (51 percent) were legally installed and are either in compliance with the Planning Code, or are pending compliance. These legally installed signs are shown in the map on page 2 and can be viewed on-line at http://signmap.sfplanning.org. The remaining 49 percent are signs that have already been removed along with the remaining illegal signs that are pending removal. As of March 15, 2012, 733 signs have been removed, up from 588 at the end of the previous reporting period.[3] Most of the remaining 109 signs that are illegal and pending removal are the subject of litigation and are discussed under the 'litigation' heading.

Because general advertising signs vary widely in size, typically ranging between 72 and 1,200 square feet, understanding the size of signs removed and signs remaining also provides a useful metric. This will be even more important following future relocation processes, when the number of signs in the City's inventory may actually increase as larger signs may be replaced with a greater number of smaller signs. While the number of signs may increase through the relocation process, sign area (square-footage of sign face) will never increase. Beginning this year, the annual report compares existing and removed square footage of signage.



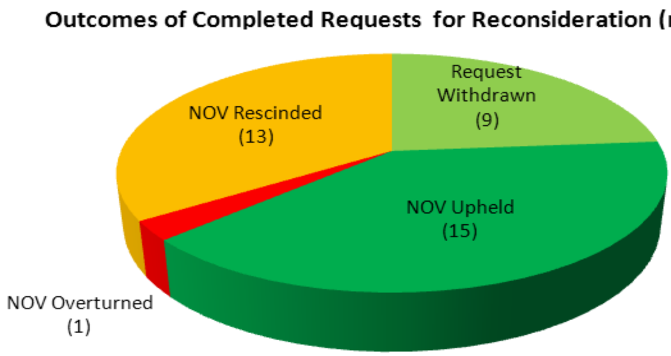
The 1,702 signs in the inventory (including existing and removed signs) represent 589,688 square feet of sign surface area. Of this, 170,104 square feet has been removed, representing 29 percent of the total. Should all the signs that have been removed be placed in a contiguous rectangle, they would cover one entire city block.

Requests for Reconsideration. Over the span of the GASP, 40 Requests for Reconsideration have been received, of which 38 have been processed to completion. Of those 38 completed requests, 15 resulted in NOV's being upheld, while only one resulted in an NOV being overturned. The remaining 22 Requests were either withdrawn by the applicant or the NOV in question was rescinded by the Department. With respect to these latter categories, it should be noted that through the course of hearing preparation, new information is often presented by a Requestor that allows the Department to reconsider the basis for the NOV. Should that evidence indicate that, contrary to previous evidence, a

[2] The inventory grew by 30 sign records since last year due to 40 illegal signs being added and 10 signs being deleted. A sign is permanently deleted from the database only if it is determined not to be a general advertising sign (e.g. the Coca-Cola sign at 601 Tompkins Avenue was deleted after it was approved as a vintage sign).

[3] 83 percent of removed signs did not comply with the Planning Code and were the subject of an NOV and associated enforcement actions, and 17 percent were removed by a property owner or sign company independent of an NOV.

sign is in fact legal, the Department typically rescinds the NOV. Similarly, upon seeing the strength of the Department's case, Requestors may withdraw their request rather than waste their resources defending a sign that cannot be brought into compliance. Nine Requests were processed since the last reporting period in February of 2011. Two Requests were heard and had the NOV upheld, two were withdrawn and five had the NOV rescinded. Two Requests are pending a hearing.



In-Lieu Applications. All requests for in-lieu permits were processed before the end of the last reporting period. Of the 321 requests made, 124 (39 percent) were found to be likely legal and were provided an in lieu number. The other 197 (61 percent) were found to be not likely legal and have been removed.

New Signs. Despite the Department's efforts, new general advertising signs continue to appear throughout the City, albeit at a reduced rate from previous years. There were 40 new illegal signs installed at 23 different locations during this reporting period, down from 98 new signs during the last reporting period. All but 7 of these new signs have been removed to date.

Requests for Relocation. With the completion of the inventory process and the validation of the inventories of a number of sign companies as being complete and without violation, requests for sign relocation can now be submitted. Although a number of inquiries were made, only one request was actually filed. It was withdrawn after a determination that the sign being proposed for relocation would not comply with the criteria of Section 303(l) at the proposed new location.

4. LITIGATION

Since the inception of the GASP, numerous outdoor advertising companies have sued the City to curtail enforcement of the City's sign ordinances and to overturn decisions made with respect to particular signs. Of the 109 signs that are illegal and pending removal, all but eight belong to two companies that are involved in active litigation with the City. The City reached a settlement agreement with one of these companies, effective February 15, 2012, and all of their signs will be either removed or legalized through the relocation process during the next reporting period.

No new litigation was filed during this reporting period and of the 13 lawsuits filed over the past five years only two remain outstanding. Among the 13 actions, ten relate to individual signs and seek to overturn a City decision while three challenged specific Planning Code provisions or related to broader policy issues.

5. FINANCIAL DATA

GASP revenue to-date this Fiscal Year is $385,763. Much of this funding stems from two sources: (1) the annual inventory maintenance fee - accounting for $197,546 and (2) fines and penalties – accounting for $178,394.

An additional $1.75 million in penalties will be paid to the City as part of a settlement agreement with Fuel Outdoor. The Commission was briefed on this matter in late 2011. Another sign company that has been in litigation with the City has accrued $570,600 in penalties, and $2.76 million of outstanding penalties are in collections, a portion of which is expected to be collected by the end of the current fiscal year.

It should be noted that $132,519 of penalties collected during the course of the GASP's activities stem from repeat violators, which are given a reduced 3-day window of compliance before penalties begin to accrue. Since the onset of these provisions, the Department has cited 20 total repeat sign violations, all of which have been abated.

Revenues

	FY06-07	FY07-08	FY08-09	FY09-10	FY10-11	FY11-12 (Actual to 3/15/12)	FY11-12 (Full Year Projected)	Program Totals[4]
Sign Registration Fee[5]	$431,200	$62,720	$28,686	$26,767	$42,480	$6,654	$7,000	**$598,853**
In-Lieu Application Fee[6]	$94,400	$0	$0	$0	$0	$0	$0	**$94,400**
Annual Inventory Maintenance Fee[7]	$0	$57,264	$84,860	$217,313	$200,372	$197,546	$205,000	**$764,809**
Reconsideration Fee[8]	$0	$20,400	$30,550	$31,992	$40,120	$3,400	$3,400	**$126,462**
Request for Relocation Fee[9]	$0	$0	$0	$0	$0	$1,249	$1,249	**$1,249**
Fines and penalties[10]	$61,249	$102,594	$91,914	$323,369	$91,179	$178,394	$250,000	**$833,759**
Refunds and Adjustments	$0	$0	$0	-$12,300	-$15,236	-$1,480	-$1,480	**-$29,016**
Totals	**$586,849**	**$242,978**	**$236,010**	**$587,141**	**$358,915**	**$385,763**	**$465,169**	**$2,477,062**

The vast majority of program expenditures relate to staff costs, both in-house and at the City Attorney's Office. The GASP is presently staffed by one part-time code enforcement Planner III. In addition to Planning Department resources, the GASP employs the full breadth of litigation, code

4 Totals are based on FY2011-12 full year projected (not actual) revenues.

5 Planning Code Section 358 establishes sign registration fees for initial registration of a sign or subsequent changes of control of $699 per sign.

6 During the period in which the Department could accept in-lieu applications, Planning Code Section 358 established an inventory processing fee of $320 per sign.

7 For the current fiscal year, Planning Code Section 358 establishes an annual inventory maintenance fee of $226 per sign.

8 Planning Code Section 610(d)(2) establishes a fee of $3,400 to file a Request for Reconsideration.

9 Planning Code Section 358 establishes a fee of $1,249 to file a Request for Relocation.

10 Fines and penalties and set forth throughout the Planning Code, including Section 604.1(d), 604.2(g) and 610(b)(2).

enforcement, and advice services provided by the City Attorney's Office. As suggested above, costs associated with legal services continue to be substantial.

Expenditures

	FY06-07	FY07-08	FY08-09	FY09-10	FY10-11	FY11-12 (Actual to 3/15/12)	FY11-12 (Full Year Projected)	Program Totals[11]
Planning Dept. Staff	$131,793	$284,761	$254,992	$321,241	$227,036	$63,584	$95,376	**$1,315,199**
City Attorney Staff	$0	$111,370	$250,816	$280,000	$296,580	$0	$107,140	**$1,045,906**
Misc. Costs[12]	$19,000	$24,372	$14,464	$19,491	$9,977	$0	$10,000	**$97,304**
Totals	**$150,793**	**$420,503**	**$520,272**	**$620,732**	**$533,593**	**$63,584**	**$212,516**	**$2,458,409**

Revenue projections for the remainder of this Fiscal Year (including anticipated collection of penalties and the resolution of certain outstanding legal matters) are higher than projected expenses for the first time since the program began. This current-year surplus will offset shortfalls from prior years. All-time GASP revenues and expenses are expected to be generally aligned. In broad terms, and based on available data, the GASP continues to bring in revenue that is sufficient to cover operating expenses.

6. NEXT STEPS

Over the next year, the GASP will continue to monitor general advertising signs for compliance and maintain an accurate inventory. Staff will implement the settlement agreement with Fuel Outdoor, process existing and any new Requests for Reconsideration and review Requests for Relocation.

[11] Totals are based on FY2011-2012 full year projected expenditures.

[12] This figure accounts for office and other supplies, software and equipment, data processing, staff training, vehicle rental, reproduction and Rent Board ALJ services.