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Via Email, Fax, U.S. Mail

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RE: Billboards Proposed near the East Terminus of the San Francisco Bay Bridge Prohibited by the California Outdoor Advertising Act and Caltrans' Regulations.

Dear Sirs,

This office represents, ScenicEastBay.org., an unassociated not-for-profit dedicated to preserving and enhancing the aesthetics of the East Bay. ScenicEastBay.org is an affiliate of Scenic America, a national organization which has filed litigation against the Federal Highway Administration regarding digital billboards and enforcement of the Highway Beautification Act.

I write in regards to billboards proposed to be constructed near the east terminus of the San Francisco Bay Bridge which violate the Outdoor Advertising Act and Caltrans' regulations.

The California Department of Transportation is responsible for enforcement of the Outdoor Advertising Act (Bus. & Prof. Code, § 5200 et seq.). If a freeway is classified as landscaped, the Act prohibits advertising displays on adjacent property, except in limited circumstances. (Bus. & Prof. Code, §§ 5440-5443.5.)

Business and Professions Code section 5440 specifically prohibits billboards adjacent to landscaped freeways; "no" advertising display may be placed on property adjacent to a landscaped section of a freeway. The Office of Outdoor Advertising "shall not issue a permit" for an advertising display adjacent to such freeways once a preliminary landscaped determination has been made. (4 CCR § 2505, subd. (b).)

Pending before Caltrans are two applications to construct billboards which are prohibited by law: A04-0532 and A04-0533.

ScenicEastBay.org has consulted with Jerry Wachtel, a Certified Professional Ergonomist and the President of The Veridian Group, Inc. about the location of these two proposed billboards in relation to Caltrans' designated landscaped freeways. Mr. Wachtel has superimposed the coordinates of the proposed billboards on a map showing the post pile markers. Based thereon, Mr. Wachtel has concluded that these applications will locate advertising displays adjacent to Interstate 80 (I-80) between post mile markers 2 and 3. This portion of the Highway 80 is a Caltrans designated landscaped freeway segment.¹

For these reasons, it is incumbent upon Caltrans to deny billboard permit applications A04-0532 and A04-0533.

In addition, ScenicEastBay.org is continuing to investigate whether Caltrans should cancel permits granted for applications A04-0534, A04-0535, and A04-0536 on the grounds that these proposed billboards are not within 1000 feet of an existing business activity. Caltrans' website states that there "must be an existing business activity within 1000 feet of proposed display location on either side of the highway." http://www.dot.ca.gov/oda/permit_requirements.htm. The three applications listed above stated that Arthur Freyer Lighting at 2491 Ukraine Street was within 1000 feet.² However, Arthur Freyer Lighting does not currently operate at this location. Further, upon investigation ScenicEastBay.org has learning that the building at 2491 Ukraine Street is slated for demolition.

Please contact this office if you have any questions in this regard.

Sincerely,


Brian Gaffney

¹ Caltrans list of classified landscaped freeways can be found at http://www.dot.ca.gov/hq/LandArch/lswfy/pdf/class_ls_fwy_dec_2013.pdf. In addition, on-the-ground site inspections by ScenicEastBay.org confirm that the designated section of Highway 80 adjacent to proposed billboards A04-0532 and A04-0533 has been landscaped.

² In addition, Applications A04-0532 and A04-0533 – which violate the prohibition on billboards adjacent to landscaped freeways – failed to list any business within 1000 feet on the applications.