



SAN FRANCISCO PLANNING DEPARTMENT

September 9, 2008

Ms. Laura Basaloco-Lapo
Law Offices of Laura Basaloco-Lapo
155 Montgomery St. - 12th Floor
San Francisco, CA 94104-3902

**RE: Request for Written Determination Pursuant to Planning Code Section 307(a)
470 Broadway, San Francisco
Assessor's Block/Lot: 0144 / 015
Zoning: Broadway Neighborhood Commercial District (NCD)**

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San Francisco,
CA 94103-2479

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Dear Ms. Basaloco-Lapo,

This is in response to your letters of June 23, 2008 and August 19, 2008, and related letter to City Attorney Dennis Herrera of June 6, 2008 regarding three general advertising signs at the above-referenced property. Please accept my apologies for the delay in responding to your query. The unique nature of the request and associated complex issues required additional time to prepare and issue an appropriate response.

You have asked for clarity on your client's right to file a Building Permit Application to replace the current sign structures should they be removed. I have reviewed the information in your letter and based upon my examination and analysis of the circumstances have made the determination discussed below.

Based upon previous ruling by the Board of Appeals, a sign permit typically "runs with the land" and not with a particular lessee or tenant.

It is my understanding that, as the owners of land on which you indicate three general advertising signs exist, your clients must authorize any permit for removal or modification of those signs. This is set forth in Item Number 6 of Section 106A.3.1 of the San Francisco Building Code, which requires that all permit applications be signed by a property's owner or the owner's authorized agent. This would suggest that any permit which is approved without such authorization would have been issued in error and would be null and void. However, I do not administer or interpret the Building Code and urge you to confirm this with the Department of Building Inspection (DBI).

That said, please understand that Planning Code Section 604 makes it clear that a lawfully existing general advertising sign may not be replaced or reconstructed. Section 604(h) states that any lawfully existing sign "which is voluntarily destroyed or removed by its owner or which is required by law to be removed may be restored only in full conformity with the provisions of this Code." Because Planning Code Section 611(a) prohibits the construction of new general advertising signs, should the existing signs on the property be removed, the Department would be unable to approve any permit which authorized their replacement.

With respect to your client's particular situation, please be aware that the Planning Department has no purview over any private agreement into which your client may have entered in connection with the subject signs. It is regrettable if, as you state in your letters, your clients were misinformed or acted in an "unsophisticated" manner in the past. The Planning Code is quite specific and allows for no discretion on this matter.

Of note in this matter is a recent determination made by the Board of Appeals in the course of their review of a permit to remove a general advertising sign at 2283-97 Market Street (the 'Lee Case'). In that case, the Board affirmed that the right to seek a permit rests with a property owner rather than a lessee, such as a sign company. While a property owner may delegate authority to a lessee in order to seek a permit (as is commonplace in many applications), a lessee may not seek a permit without the consent of a property owner. In the Lee Case, a permit to remove a sign was sought by a sign company *without* the consent of a property owner; that permit was subsequently issued and executed. The Board's decision allowed the restoration of the sign based on the erroneous nature of the permit in question *but had no bearing on the private agreements in place between the sign company and the property owner*. Although we understand that the Lee case is currently being appealed to Superior Court, this appeal does not affect the current state of the law.

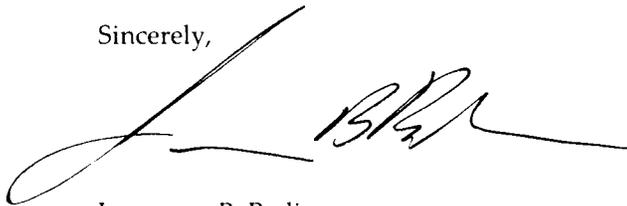
In summary, while the authority to remove a sign – or seek most other permits - rests with a property owner, should the removal be authorized and executed, the Planning Code clearly prohibits the construction of a replacement sign. Any disagreement between a sign company and a property owner as to the granting of authorizations is beyond the jurisdiction of the Planning Department.

Please note that this letter does not constitute a determination of legality or lack thereof with respect to the subject signs or any other feature on the property in question.

If anyone has substantial reason to believe that there is an error in the interpretation of the Planning Code, or abuse of discretion on the part of the Zoning Administrator, this determination may be appealed to the Board of Appeals within fifteen (15) days from the date of this letter. For further information regarding the appeals process, please contact the Board of Appeals, 1650 Mission Street, Suite 304, San Francisco, or by telephone at (415)575.6880.

Please direct any questions regarding this letter to Daniel Sider of my staff at (415) 558.6697 or via email at dan.sider@sfgov.org.

Sincerely,



Lawrence B. Badiner
Zoning Administrator

cc: Daniel A. Sider, SF Planning Department