



October 2, 2017

Sign Board of Appeals
City of Rochester Hills
1000 Rochester Hills Dr.
Rochester Hills, MI 48309

RE: General Objection for the Record to the Authority and Jurisdiction of the Sign Board of Appeals (“SBA”) to Grant International Outdoor, Inc. (“Applicant”) a Variance for an Off-Premise Sign

Honorable Board Members:

Please accept for the record this letter as Applicant’s formal objection to the authority and jurisdiction of the SBA by the Rochester Hills Code of Ordinance, Section 134, et seq. (the “Ordinance”) to grant Applicant a variance for an off-premise sign.

The city zoning board of appeals “shall constitute the [SBA] for the purposes of interpreting and carrying out the provisions of [Section 134], except for questions of construction requirements for which the city construction board of appeals shall have jurisdiction.” the Ordinance, Section 134-36.

The SBA shall have the power to modify or reverse, wholly or partly, the notice or order given under this chapter, grant variances and grant extensions of time for the performance of any act required. The Ordinance, Section 134-38(a).

However, the SBA’s power is also limited by the Ordinance, Section 134-41(c), which states, “Limitations. Nothing contained in this section shall be construed to empower the sign board of appeals to substantially change the terms of this chapter or to significantly add to the types of signs permitted on any premises.” Emphasis added.

Presently, the Ordinance prohibits the construction of off-premise signs on any premises within the city limits (See Ordinance Section 134-115(a), “It shall be unlawful to maintain any sign that is not an on-premises sign ...”). This Section was also used as the basis for the building official to deny Applicants initial application for a sign permit.

Therefore, when the two sections are applied to Applicant’s application for an off-premise sign, it appears the SBA cannot grant a variance that would allow an off-premise sign prohibited by Section 134-115(a).

Applicant sought guidance from the city’s Planning Director, Ms. Sara Roediger, by email dated September 28, 2017 and the city’s attorney, Mr. John Staran, by email dated September 29, 2017. On October 2, 2017, Mr.

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Staran advised that it was his opinion that the SBA had the authority and jurisdiction to grant Applicant an off-premise sign variance.

I have attached the emails discussed above for the record.

Sincerely,



Jeffery R. Sieving
Corporation Counsel



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Jeff Sieving

From: John D. Staran <jstaran@hsc-law.com>
Sent: Monday, October 2, 2017 9:47 AM
To: Jeff Sieving
Cc: Roediger, Sara (roedigers@rochesterhills.org)
Subject: RE: City of Rochester Hills - Denial of Off-Premise Sign Permits & Appeal Process

I have advised Planning Director Roediger that in my opinion the Sign Board of Appeals does have jurisdiction and authority to consider and decide an appeal and/or variance request for an off-premises sign.



John D. Staran

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From: Jeff Sieving [mailto:jeff@iobillboard.com]
Sent: Friday, September 29, 2017 10:48 AM
To: John D. Staran
Cc: jeff@iobillboard.com; roedigers@rochesterhills.org
Subject: City of Rochester Hills - Denial of Off-Premise Sign Permits & Appeal Process

Good morning Mr. Staran,

I am contacting you in your capacity as the city attorney for Rochester Hills. Yesterday, I emailed the Planning Director, Ms. Sara Roediger, inquiring as to the appeal process for an off-premise sign. Her response indicated that she is out of the office until October 2nd. I presume she may forward my issue to you anyway, so I thought I might save some time and email you directly.

In my reading of the city ordinance and zoning ordinance, it seems like neither the ZBA nor the SBA have authority to grant a variance for an off-premise sign. Section 134-115(a) only allows on-premises signs and Sections 134-41(c) and 138-2.400(D) limit both the SBA and ZBA from granting any relief that requests permission for an off-premise sign.

I am looking for your suggestion on an appeal process or if there is no process considering what we are requesting, I was looking for an affirmative statement from the city saying as such.

I appreciate any guidance you can provide and am available to discuss this issue at your convenience. Our application to the SBA is due on Monday and we will be submitting an application unless I hear from you someone else from the city otherwise.

Best regards,

Jeffery R. Sieving

Corporate Counsel

International Outdoor, Inc.

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From: Jeff Sieving [<mailto:jeff@iobillboard.com>]

Sent: Thursday, September 28, 2017 3:35 PM

To: roedigers@rochesterhills.org

Cc: jeff@iobillboard.com

Subject: Denial of Off-Premises Sign Permits & Appeal Process

Good afternoon Sara,

I am not sure if you are or are not aware, but recently, our applications for off-premise signs at: 2274 Star Ct., 1601 Star Batt Dr., and 1159 S. Blvd, were denied. If you recall, last week we confirmed with you that the deadline to appeal the decisions to the Sign Board of Appeals is 20 days from the postmarked denial.

Since that time, I have been reviewing the city's ordinance, master plan, and zoning ordinance. The denial letters all cite the code of ordinance Section 134-115(a) ("unlawful to maintain a sign that is not an on-premises...") as a reason for the denial along with Section 138-179(s) for dimensional infirmities (height, size, monopole).

The denial letters also all indicate an appeal of the determination may be made to the Sign Board of Appeals ("SBA") (Zoning Ordinance Section 134-36). I agree the SBA may grant variances when competent, material and substantial evidence supports a finding of special conditions, deprivation of rights, and substantial justice. (Section 134-38(a) & 134-41(a). However, the SBA has no authority to grant relief that substantially changes the terms of the sign ordinance or to significantly add to the types of signs permitted on any premises. Section 134-41(c).

Reading Section 134-115(a) and 134-41(c) together, it does not appear that the SBA even has the authority to grant us relief even if we could meet the applicable criteria otherwise for a variance.

Similarly, the city Zoning Ordinance provides for a Zoning Board of Appeals (“ZBA”) with authority to grant variances where there are practical difficulties or unnecessary hardships with the strict interpretation of the ordinance. Section 138-2.400(A). However, again and like the SBA, the ZBA’s authority is limited and it may not alter or change the ordinance, change the zoning map, or rezone property. Section 138-2.400(D).

Reading Section 134-115(a) and 138-2.400(D) together, it does not appear that the ZBA has authority to grant us relief even if we could meet the applicable criteria otherwise for a variance.

It seems there is no adequate procedure to appeal the decision of the ordinance inspector. Neither the SBA nor the ZBA have authority to grant a variance for an off-premise sign on any property within the city.

I do not want to waste the city’s resources or our company’s. With the limitations of authority in Sections 134-41(c) & 138-2.400(D), do you agree that Section 134-115(a) prevents both the SBA and ZBA from granting a variance in this limited circumstance? Does the city have another avenue to request relief from the ordinance? We already have signed leases with property owners and state permits for the locations.

Please respond at your earliest convenience.

Best regards,

Jeffery R. Sieving

Corporate Counsel

International Outdoor, Inc.

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