SIGNLINE

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Appraising the Value of Signage

America is a speech-driven society. This includes commercial speech. In many cases, commercial speech takes the form of on-premise business signage.

The need for on-premise signage is derived from the demand of consumers for information about activities placed according to land use decisions that have been made by local, regional, and state governmental agencies. If an on-premise sign is not visible enough to provide the necessary communication, a business site simply cannot function as zoned.

As Berman and Evans[1] and Lusch, Dunne and Gebhardt[2] note, high visibility is essential in communicating that the store exists at a given location, and the hours during which it is open for business. The identification function of on-premise signage, therefore, is fundamental to the success of most retailers.

It is for this reason that retail sites with greater visibility command higher lease rates per square foot than otherwise equivalent sites located within the same market but suffering from poor visibility. Business sites with greater visibility attract more customers. More customers translate into more profit. People are willing to pay more for a site if it will be more profitable.

Contrary to common perceptions at the state and local government level, the value of on-premise signage to a business is much more than the value of its physical structure. The message on the sign, its visibility, and its branding are the primary factors of a sign that attract customers to a business and increase its sales; thus, they are the aspects that truly determine its value. The taking of an on-premise sign through eminent domain can easily result in lost memory of the business, lost impulse sales, and lost branding.[3]

For a glimpse into the federal governments perspective on this, one need only consider the Lanham Trademark Act (15 U.S.C., § 1051, et seq.), which protects federally registered names, marks, emblems, slogans, and colors, if included in the registration. The Act contains severe penalty provisions for interference with or disruption of the use of this property right. Trademarks have commercial value, are considered business assets and can be bought and sold in the marketplace. Clearly, their owners ought to be compensated when those assets are taken.

This is the second in a two-part Signline addressing the issue of eminent domain takings of signage and determining the fair market value of the taken signage for purposes of paying just compensation.

In some cases, the property value is permanently diminished and irreparable harm occurs as a result of the taking – thus all three of the U.S. Claims Court's standards for trespass are met by the taking. One example of this is the Beaver Dam Raceway in Beaver Dam, Wisconsin.[4] In this case, a raceway owner agreed to temporarily remove his raceway's high-rise on-premise sign, visible from the main freeway, to make way for a public improvement. Although the sign was nonconforming at the time the City induced takedown, it was protected under a nonconforming use state statute. During the period of takedown, the raceway was sold; the municipality then refused to grant the new owner a permit to reconstruct the sign. Because the property could no longer function commercially without the sign to attract customers, the Court ordered the municipality to pay the new owner the difference between the property's value as a residential property and its greater commer-

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Business storefronts (trademarked colors, logos, signage, and even standardized buildings) are themselves routinely sold in the marketplace. The business format franchise is an excellent example of this phenomenon. Midas Muffler is an example of this approach. While the business inside remains the same, merely adding a widely recognized storefront can increase business volume 15% to 40% – far more than the cost of the rights to use the storefront.

cial value as a business site with effective exposure to the street. The amount awarded in 1981 dollars was $169,965.26 for the loss of sign, business and property value.

Loss of business income and property value is just one of a number of methods that can be used to determine the value of a sign. As with any appraisal, the approach often varies depending on the specific circumstances of the appraisal assignment.

The Signage Appraisal Process[5]

When a municipality zones land for commercial use, and especially for retail use, people have a right to participate in the business for which the site is zoned.[6] This right is a key factor in determining just compensation. The right to signage is one of a bundle of rights involved in most commercial property appraisals, and its value is why the first step in any appraisal is to identify the various "sticks" in a particular property's bundle of rights. These "sticks" might include the right to occupy the property, the right to use it, the right to lease it, and the right to sell it, for example. Each of these rights has value that can be measured.

The sign valuation process itself can include evaluating the sign as personal property, which may be a civil right and as a business right where trademarks are involved. Numerous additional considerations may also be involved in signage appraisal, including the disruption of business and associated relocation or removal costs, among other items. For the sake of brevity, however, we will confine ourselves to discussing the relatively straight-forward task of appraising an on-premise free-standing or building-mounted sign.

In the absence of unusual or mitigating circumstances, an appraisal requires using three different approaches to arrive at a realistic value determination: (1) market comparison (comparable closed sales or executed leases), (2) anticipated income, and (3) cost of replacement – and many times, substitution. Signage appraisal follows these same three approaches.

Market Comparison

The market comparison approach to appraisal refers to the highest price at which a property could be sold given a reasonable exposure period in the market. The final determination of value assumes that amount to which a willing seller and a willing buyer of equal knowledge would agree, neither being nor acting under duress.

In the case of on-premise signage, obviously little or no market exists for a "used" business sign. But that does not make the market approach useless in evaluating on-premise signage. The value of on-premise signage is that it makes the business visible to the street; therefore, it is the value of the visibility component of a business site in the marketplace – the price that a buyer is willing to pay for exposure to potential customers – that must be measured.

It is worth noting that business storefronts (trademarked colors, logos, signage, and even standardized buildings) are themselves routinely sold in the marketplace. The business format franchise is an excellent example of this phenomenon. Unlike many franchises, such as McDonald's, in which the head corporation owns the majority of the property and leases the operation to a franchisee, the business format franchise business and property are independently owned and operated. The business owner, in an effort to take advantage of branding and national advertising, purchases the rights to utilize a standardized storefront – in effect, purchasing more effective exposure to potential customers. Midas Muffler and Century 21 Real Estate are examples of this approach. While the business inside remains the same, merely adding a widely recognized storefront can increase business volume 15% to 40% – far more than the cost of the rights to use the storefront. The business format franchise industry is possibly the most traceable market for the buying and selling of storefronts.

The value of the visibility component of a retail site can be determined by conducting a survey of rental or lease figures per square foot for a number of commercial sites, including high-exposure, low-exposure, and no-exposure commercial property in the same town as the subject sign and then determining the square foot rental differences between the sites based on their visibility. It is not unusual for a highly visible commercial site to lease for 20 to 40% more per square foot than a site with low or no visibility in the same complex.

A matched pair analysis[7] can be used to produce the most basic element needed to estimate the contributory value of the visibility component of a commercial site. But great care must be taken to assure that the comparable sites are indeed closely similar. The trick is isolating the variables in a matched pair analysis (including traffic flow, driver profiles, building condition, demographics, employment rates, sign regulations, etc.) so that the visibility component may itself be measured with confidence.

Anticipated Income

An investor typically purchases a business in anticipation that the business will produce income. It is not so much the business itself that is being purchased, but rather its revenue stream. This is a far different approach to a real estate investment than the approach taken by people investing in residential real estate (housing), where the focus is more likely to be on the property's substitution value (the cost of purchasing a substitute property that is equally desirable and has fairly equal features) and its yield (the total cashflow on the property plus its increase in value).

One major, multipart study, "Research on Signage Performance," conducted between 1995 and 1997 by the University of San Diego looked at the effects of on-premise signage on the financial performance of retail sites.[8] The conclusion of the study was that "on-premise signage has a statistically significant and financially substantive impact on the revenues of a site."

The income approach to appraisal in general is a valuation approach based on analyzing the amount of rev-

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enue, or net income, a property will produce over its remaining economic life. This method of determining the value as applied to on-premise signage valuation involves establishing the percentage of business revenues traceable to customers or clients who entered the business solely because they saw the sign.

Gathering the information necessary to the income analysis is intensive work because it is dependent in part upon consumer research. One research tool is the point-source survey designed to determine what prompted the stop of a first-time customer or client. While most non-chain or nonfranchised businesses have some verifiable knowledge of the sign's impact on business revenues, when working with a true mom-and-pop business, the appraiser may need to commission a separate market survey to obtain necessary data. In the latter instance, trade associations for such independent, small-business enterprises may be able to provide or verify information.

Retail sites with better visibility and exposure to passing motorists almost always rent for 25% to 50% more than comparable sites in the same market with poor visibility. This is true whether the community is typical urban America or exclusive enclaves, such as Carmel, California. The ability of a retail store to attract the attention of the passing motorist via its sign and communicate effectively what the store offers is a major factor in the overall level of sales that store will achieve.

Even for large well-known chains, the visibility generated by the on-premise sign can greatly affect profitability. The San Antonio, Texas Best Buy store offers a pertinent example. The store's grand opening was held on August 18, 1995. It was to have two double-faced pylon signs visible to an interstate highway, and the signs were, by contract, to have been installed by June 1, 1995. But the two signs were not erected per the contract; one became fully operational the day before the grand opening, and the other September 4, 1995.

An appraiser was hired to determine the compensation owed to Best Buy for the lost exposures due to the delay in completing the contracted work. The appraiser determined that the delay cost Best Buy 34.4 million exposures over the three month period. Replacement of those exposures via newspaper would have cost $424,767. The appraiser determined that a mix of alternative media could have helped to recapture some of those lost exposures for a more cost-effective $213,000.

Next, a survey of Best Buy customers was conducted, which found that 25% said they first became aware of the store because of the signs. An additional 32% said the signs were "useful in locating the store." The store averaged $308,687 per month in sales its first year, meaning that $77,172 a month (25%), or $224,000 in sales, was directly attributable to the signs based on the 78-and 96-day periods under study.

Finally, the appraiser looked for comparable real estate to help determine the value of the visibility component of the Best Buy site. The store paid monthly rent of $34,626, or $1,154.20 per day (approximately 75 cents per square foot, or $2.46 per square meter). Comparable buildings that did not require retail signage in the area rented for 40 cents per square foot (or $131 per square meter), for a daily rent of $620.27. This meant that the value of the signage was an extra $533.94 per day, and the rent directly attributable to the signs (25%) would be $133.49 per day. In the final analysis, total damages from the lost exposures were calculated at $227,536 . The cost in lost exposure was greater than Best Buy's total rent for the same period.[9]

"The exposures generated by the on-premise sign not only cost far less than other media exposures, they are also far more effective. At least 98% of all retail sales are place-based[13] – and the on-premise sign is right there on-site, marking the very location at which the purchase could occur, and only advertising to those who actually move through the trade area."

Cost of Replacement

This approach estimates the cost of replacing or substituting an existing property interest with another of equal value. In signage appraisal, the appraiser is not considering the cost to replace the sign itself with another sign, but rather the cost to replace the sign's communication abilities by other media. In signage appraisals, the cost of alternate media is what appraisers would consider the most significant part of the sign owner's grievance. Thus, we will focus most of our attention on this

Even a supposedly destination-oriented business like Best Buy can attribute a large percentage of its business to its sign. In Best Buy's case, it was determined that 25% of its customers first became aware of the store when they saw its on-premise sign. The San Antonio Best Buy found that $77,172 in sales per month were the direct result of its on-premise sign.

approach.

The cost of "exposures" is the one common denominator among all commercial communication media, whether radio, television, print, direct mail, outdoor advertising, or on-premise signage. In advertising terms, each person who sees a sign (or other advertisement, for that matter) constitutes one "exposure" to the sign (or advertisement). All markets measure their goods using a common currency, or denominator. For wheat, that denominator is the bushel. In land valuation, it is the acre and in buildings, it is the square foot. In advertising, it is exposures measured in increments of 1000, and is reported as the "cost per thousand exposures."

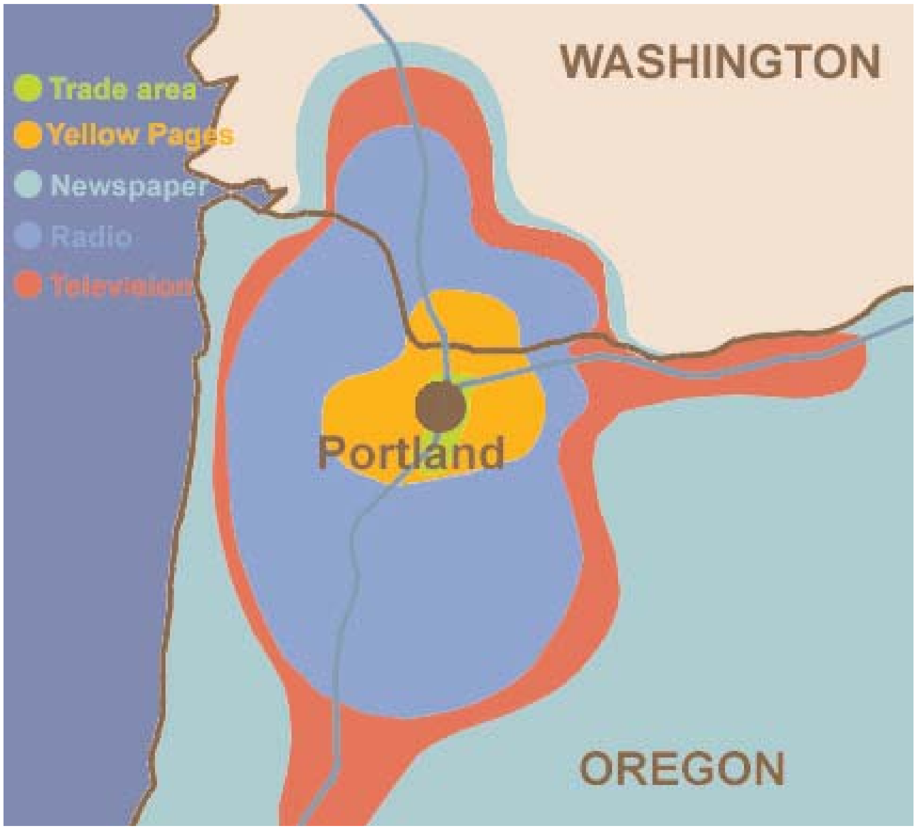
Comparisons of costs-per-thousand exposures for various advertising media also rely on frequency[10] measures. Frequency is important because without periodic reinforcement of a message, it is eventually forgotten. Once frequency data is assembled, the total out-of-pocket cost for the subject medium is divided by the number of exposures, or "reads" (per thousand) occurring during a defined time period.

Costs-per-thousand exposures vary significantly among media. The advertiser must determine if the cost of the selected medium or media mix is generating desirable returns, both in terms of retaining past customers and obtaining new ones. Some forms of advertising will be more effective or efficient for reaching the desired customer base than others. For example, a local dog grooming business would not necessarily advertise in the national *Cat Fancy* magazine, no matter how inexpensive the advertisement might be.

The fact is that no other form of advertising comes close to matching the efficiency and cost-effectiveness, dollar for dollar, of the on-premise sign. It is both the most effective and least expensive form of communication available to these businesses. The figures below represent a typical cost comparison for a small business (rates were gathered from Portland, Oregon area media sources):

- Newspaper advertising - the cost on average is about $7.39 for 1000 exposures within a 10-mile radius of the business location.
- Television advertising - The cost on average is approximately $6.26 per 1000 exposures.
- Radio advertising - The cost is about $5.47 per 1000 exposures.
- On-premise sign - The cost is less than $0.43 per 1000 exposures.[11]

Commercial and industrial interests currently spend $600 billion a year on media advertising. To help put the problem into perspective, consider that if all businesses in the U.S. were, because of sign restrictions, required to increase their expenditures on media advertising by a mere 10% in order to avoid loss of customers, the overall cost to the economy would amount



For a local business situated in Portland, Oregon the sign would reach most people within the trade area. The local Yellow Pages would reach the entire metropolitan area, radio ads would extend as far as the local station's signal could reach, television would likely reach major population bases in the state, and the newspaper would reach the entire state.

Thus, the exposure to consumers as a result of the on-premise sign costs a business far less per exposure than other media types such as newspapers, radio and television, and the expense of the sign is more efficient. The sign not only points out the precise location of the business, it also advertises to those who are moving through the trade area and who are most likely to stop at the business. Other forms of media have a high waste factor, advertising to people who are far outside the trade area and who would never frequent the business.

to $50 billion a year. Of course, that 10% is going to vary for each business. Some need more exposure to the public, and others need less.

The number of exposures generated by a sign is calculated using a careful and systematic process. First, an average 24-hour (daily) traffic count must be determined. This is then multiplied by 30 to establish a monthly count. This is the number of cars that drive past the business during the typical standard advertising month. But not every car will have just one person riding in it, so the calculation must be adjusted for "load factors" that include whether the area is rural, incorporated, or unincorporated, for example.

Typical numbers of viewers per vehicle are as follows:

Incorporated areas	1.38 – 1.6 persons
Unincorporated areas	1.7 – 2.9 persons
Vacation travel	3.0 – 3.5 persons

Traffic-flow maps for interstate and primary highways can be obtained from most state departments of transportation. In addition, cities and counties often publish street-system traffic counts. And most municipal transportation engineers can provide not only last-published traffic counts, but also updates, which may disclose an increase or decrease in traffic flow. (Other information sources are the Traffic Audit Bureau (TAB) and the Outdoor Advertising Association of America (OAAA)[12]).

A certain percentage, but probably not all, of the people passing a business site can be expected to be potential customers. If the business is a veterinary clinic, for example, the calculation should be adjusted by the percentage of people passing who own one or more pets – a figure generally available from the industry itself. Similarly, large trailer trucks are unlikely to stop a fast food restaurants. Other factors that may require adjustment of the figure include hours of business operation and seasonal traffic variations. Before calculating a sign's cost-per-thousand exposures, the appraiser must obtain reliable information on driver profiles in addition to traffic volume. Origin/destination studies offer reliable data in these circumstances.

The exposures generated by the on-premise sign not only cost far less than other media exposures, they are also far more effective. At least 98% of all retail sales are place-based[13] – and the on-premise sign is right there on-site, marking the very location at which the purchase could occur, and only advertising to those who actually move through the trade area. Other forms of media have a high waste factor, advertising to people who are far outside a business's trade area.

Sign Valuation Case Studies

Agoura Hills

Just compensation for the taking of on-premise signage was the subject of *Denny's Inc., et al v. City of Agoura*

Hills.[14] A portion of the city of Agoura Hills is bisected by U.S. Highway 101, locally referred to as the Ventura Freeway. The City wanted to enhance its visual aesthetics, and it enacted a sign ordinance which, among other things, prohibited all pole signs, with the exception of a few signs less than six feet in height. Certain business proprietors were identified by the city as being in violation of the ordinance, and their traditional pole signs exceeded the new height limit considerably. Under the new code, the pole signs became non-conforming on March 20, 1985, and following an amortization period of eight years, were subject to removal on March 20, 1992. Eventually litigation ensued.

The businesses alleged that the city's sign ordinance violated Section 5499 of the California Business and Professional Code. This provision essentially prohibited the removal of any on-premise sign on the basis of height or size if topographical circumstances would materially impair the visibility of a conforming sign, or impair the sign user's ability to adequately and effectively continue to communicate with the public through use of a sign conforming to the new code. If impairment of visibility or communication would result as a consequence of enforcing the ordinance, the original sign could remain and would be deemed conforming, as a matter of law.

Based on Section 5499 and its preemption of local law, the businesses requested an injunction against city enforcement of the ordinance against them. The city concurred that the state code applied to its ordinance, but countered, as a defense, that other merchants in the area with conforming signs were enjoying vigorous business and healthy sales. The trial court rejected this argument.[15]

One of the businesses affected by the city's ordinance was a Burger King franchise located adjacent to the Ventura Freeway. The subject's pole sign was highly visible to potential customers traveling north or south on the freeway. Traffic counts showed that 88% of those vehicles passing the restaurant did so via the freeway; the other 12% passed by on local frontage roads.

Due to surrounding topographical circumstances (the business site was lower than the freeway), a sign of the type and height required by the ordinance would not be capable of being seen by motorists traveling in either direction on the freeway. Neither could the business premises be seen until it was too late to safely exit the freeway. Thus, forced removal of the pole sign would render the site essentially invisible and incapable of attracting the freeway motorist impulse buyer.

The Agoura Hills Burger King and its sign were specifically built to service Ventura Freeway motorists, and its profit structure was designed with that in mind. Corporate field studies found that nearly 60% of the store's business was attributable to its on-premise sign. Even after factoring down the potential loss in business attributable to loss of the sign from 60% to 37.5% (a compromise "averaging" of Burger King's data and that of the city's expert), corporate accountants found that

The signs of Agoura Hills litigants provided important information to drivers who, for example, might be running low on gas, experiencing engine trouble, or wishing to eat before continuing their journey. In response to questionnaires concerning how they first became aware of a business, and why they stopped, many customers noted their appreciation for the sign as a "beacon" - signaling the presence of a place nearby to obtain products of services to satisfy an immediate requirement.

While large national corporations understand the value of on-premise signage, many small business merchants and proprietors, unfortunately, do not. Every site development strategy will benefit if the on-premise sign is made the focal point of the site. In other words, if site development or renovation is sign centric, the positive effect on gross revenues should be immediately recognizable.

the franchisee would lose a profit of $2 million over a 15-year period, the term left on the lease at the time of controversy. Using the higher 60% business loss calculation – a calculation the corporation believed more accurate – the lost profit would equal $3.2 million. Due to the reasonably foreseeable near-immediate downturn in impulse trade upon removal of the sign, most of the revenue loss would occur in the first one to two years, almost certainly driving the franchisee out of business long before the lease expired.

A comparison was also made between the Agoura Hills Burger King and another Burger King in Camarillo, a few miles farther down the freeway. As with the Agoura Hills site, the Camarillo premises were not visible from the freeway, and although the store had a pole sign, the sign was visible only to southbound traffic and could not be seen until the motorist had passed the appropriate exit.

Because of both lack of visibility and ready access from the freeway, the Camarillo Burger King relied much more on the local population and local frontage road traffic than the Agoura Hills store, and not surprisingly, its sales were only 48% of the sales achieved by the Agoura Hills site. The difference in volume tended to support a finding that up to 60% of the sales of the Agoura Hills Burger King flowed from its visibility to traffic in both directions for distances great enough to provide ample time for the unfamiliar driver or impulse purchaser to exit safely. Additionally, the Camarillo location was considered trade-area oriented, while the Agoura Hills franchise was strictly “point of distribution” or freeway oriented, and thus expected to draw only a small percentage of the local consumer pool.

The studies and surveys provided by all other litigants similarly found that extensive adverse impact to business revenues and profits would result if their pole signs, visible to the freeway, were removed. Among these were McDonald’s and Texaco.

Plaintiff Agoura Restaurants, Inc., dba[16] McDonald’s, is located adjacent to a freeway off-ramp and uses a 75-foot pole sign displaying its name and logo to signal potential customers. The trial court found that the restaurant is heavily dependent on freeway traffic for its customer base, and that no sign or display conforming to the city’s ordinance would be visible to freeway motorists “at a safe and reasonable decision point for the off-ramp.” Further, the trial court found that removal of the pole sign would result in an immediate gross revenue loss to the restaurant of 35%; a similar loss was found likely for the Texaco station upon removal of its sign. In Texaco’s case, the predicted loss in gross sales amounted to $336,000 the first year of sign takedown. For the McDonald’s restaurant, the first-year predicted loss in gross sales averaged $1.1 million, based on a 35% reduction of pre-litigation gross revenues of $2.7 million a year. Corporate researchers calculated that the first-year loss in gross sales would rise to $2.3 million (or 85%) within five years as non-local motorist recall of the site diminished. Such losses would force the restaurant to close.

The trial court concluded that enforcement of the ordinance would result in a material impairment of all plaintiffs’ ability to communicate adequately and effectively with the public due to topographical conditions. These conditions included trees, hills, concrete highway structures, other buildings, utility poles and wires, vehicles traveling the freeway, and any other visual impediment other than the natural limits of human eyesight.[17]

The court then ruled that the attempted enforcement of the city's ordinance violated the Business and Professions Code. It ruled that plaintiffs could keep, maintain, and exhibit the disputed signs at their respective business premises; that such signs would be deemed in conformance; and that the city, because of its "wrongful and on-going conduct," was permanently enjoined from enforcing the ordinance against the plaintiffs.

On appeal by the city, the appellate court affirmed the trial court's decision, deciding the case on the narrow question of "material impairment of visibility," without reaching the issue of commercial impact by the city's ordinance. However, the trial court clearly paid attention to the economic research and data submitted not only by the affected businesses, but also by the city's own expert, who agreed that significant losses in customer base and business revenues would result from the loss of signage.[18]

In the Agoura Hills Burger King case, lack of freeway visibility of the premises itself precluded the business from overcoming the sign height restriction by alternate forms of signage. Had a signature building, for example, been a viable alternative (if the site itself were effectively visible to the freeway, it may have been), the Agoura Hills Burger King and other freeway merchants similarly situated and adversely impacted by the city's height restrictions may not have litigated for ten years – years that were costly to both the businesses and the city.

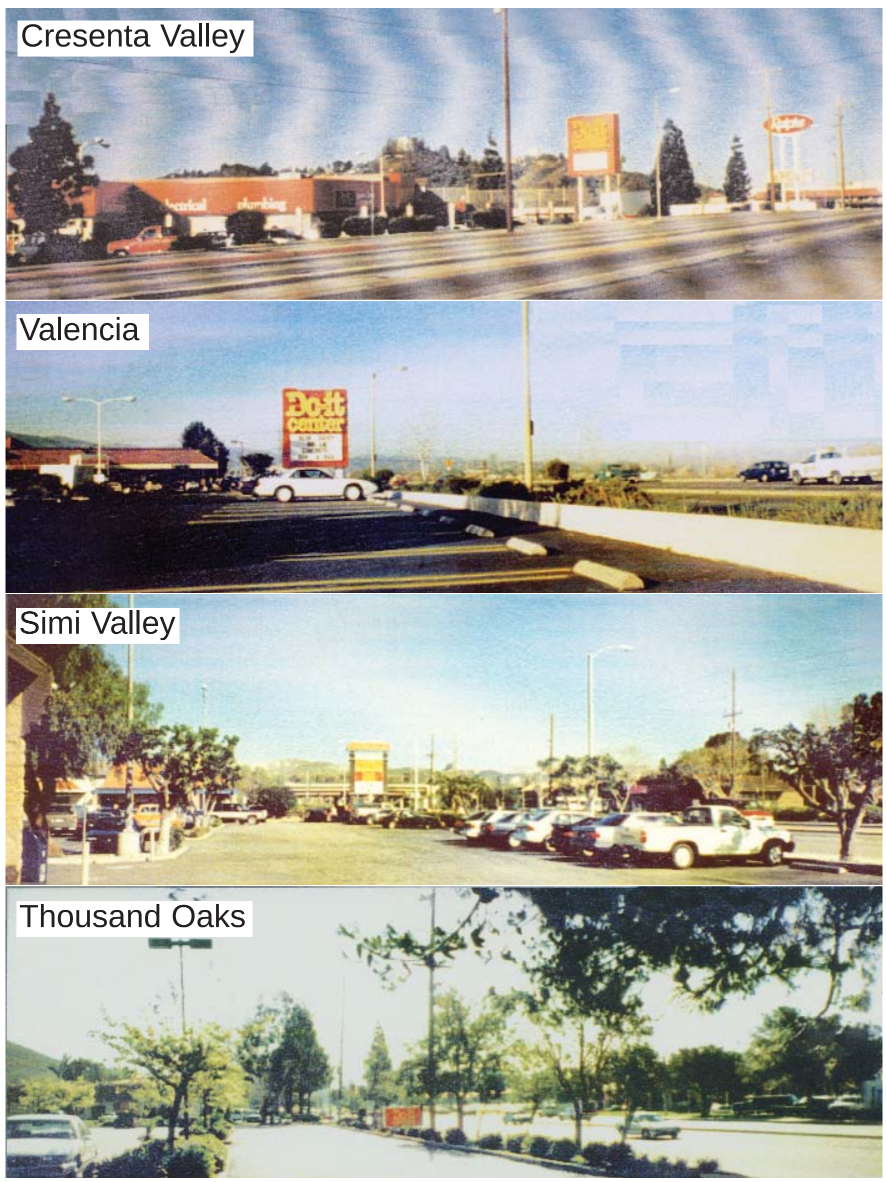
Do-It Centers

Matched pair analysis can effectively identify the differences in value of comparable commercial locations that are traceable to the visibility component. An excellent example of such analysis is provided by the experience of a small, four-store independent chain of home-improvement centers, known as the "Do-It Centers" and located in southern California.

The chain found itself faced with new competition from the incoming Home Depot, which had moved into the chain's trade areas. The small chain owner decided to go head to head with Home Depot, and initiated a total remodel of his old stores to update their on-site marketing techniques and present a modern storefront. The chain's stores were located in Cresenta Valley, Valencia, Simi Valley and Thousand Oaks. All of the stores, before and after remodel, were approximately 44,000 square feet in size. Prior to remodel, signage for all four stores was similar and gross sales were within 15% of one another.

Because the stores were located in different trade areas, with different municipal sign codes, the owner had to tailor each store to fit the relevant code. Storefronts

Matched pair analysis is an effective tool in identifying the precise features of a property that affect value. These four "Do-It Centers," all located in southern California, carried the same products. The differences were pared down until a measurement of the financial impact of the local sign code could be made. The findings showed that effect was significant.



Property owners have a right to use their property consistent with its zoning. The on-premise sign is essential if retail or commercial property is to function as zoned. Moreover, both the municipality and the community benefit when land zoned for retail or commercial use is used to its full capacity.

were somewhat standardized in terms of corporate logo and colors, but the fascia and freestanding signs were of varying sizes among the four stores.

Cresenta Valley had a liberal sign code which allowed the chain owner to place a large storefront wall sign over the main entrance and border wall signs listing products (housewares, paint, electrical, and plumbing) along the sides of the building. A large, double-pole free-standing sign that included a variable message board was erected adjacent to the street.

Valencia's code was similar, and the owner was able to place large wall signs over the main entrance and along the sides. However, in contrast to the Cresenta Valley location, the visibility of the freestanding sign was somewhat blocked by a landscape median between the street and the sign, as well as a parking barrier in front of the sign, which was also somewhat shorter in height.

Simi Valley had a much more restrictive sign code; consequently, the site's storefront signage was considerably smaller, limited to narrow border wall signage. Although its freestanding sign was tall and close to the street, the store was required to share the sign with other businesses.

The sign code in Thousand Oaks was the most restrictive of the four. The site's storefront signage was limited to a small entrance sign and two small "hanging" signs at either end of the building. The freestanding sign was located on a landscaped strip next to the road, but the size limit of 36 square feet resulted in severe masking of the sign by surrounding foliage.

Following the remodel, and despite Home Depot's presence, the Cresenta Valley store increased its sales by 45% and Valencia by 38%. On the other hand, the Simi Valley store's increase was only 20% and the Thousand Oaks's increase a mere 10%. Further, the difference in sales volume between the Thousand Oaks site and the Cresenta Valley site, which prior to remodel was only 15%, considerably increased. The chain owner had not increased local media advertising, thus the disparate increases in sales volume between all the stores could only be attributed to the availability – or lack thereof – of on-premise signage easily visible and readable to street traffic.

In Conclusion

In their efforts to preserve the health, safety and welfare of the community, municipalities make zoning decisions regarding the appropriate and allowed uses of land in various zones. The owners of the property have a right to use their property consistent with the zoning.

Moreover, both the municipality and the community benefit when land zoned for retail or commercial use is used to its full capacity.

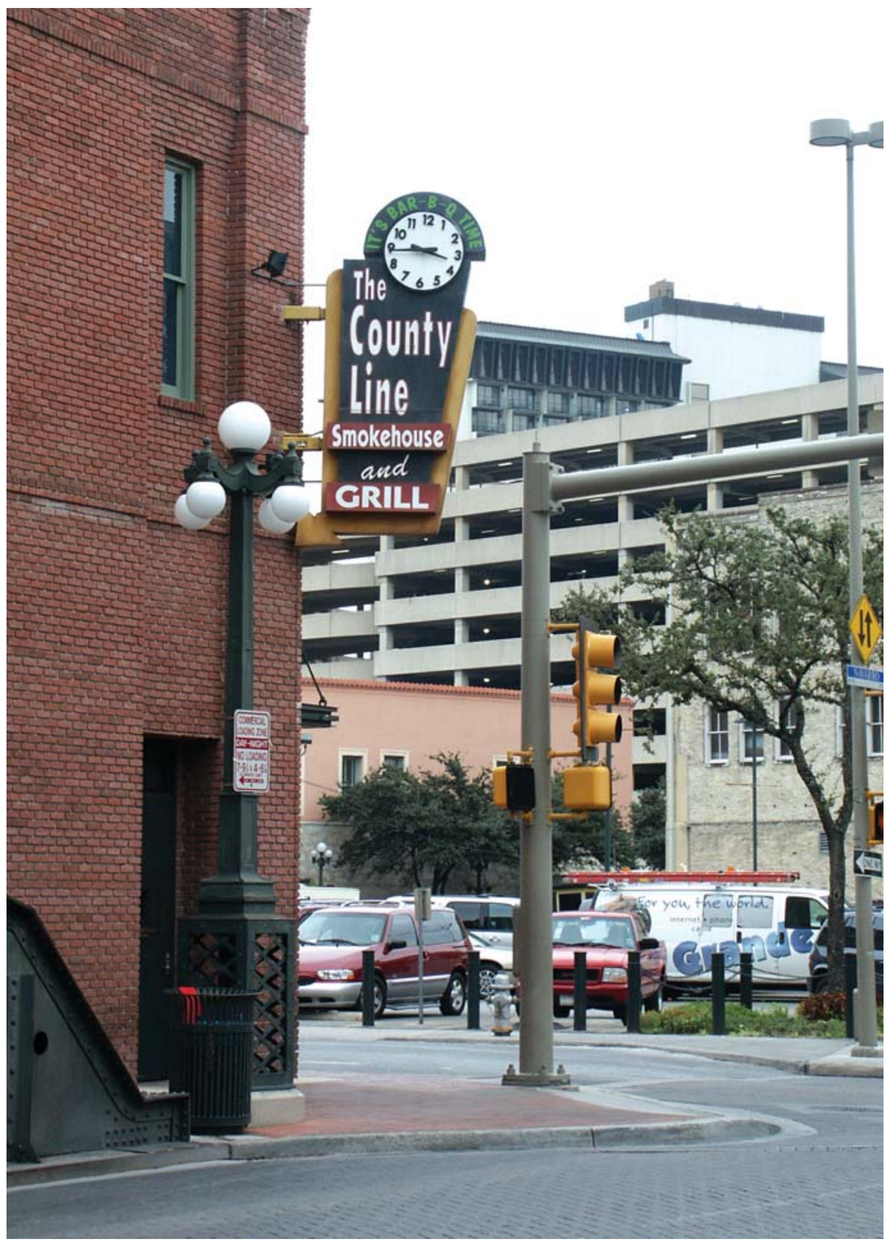
The ability to communicate visually via signage is the right of every business owner located in a retail zone. Without that communication, the land very likely cannot function as zone, and the business may fail. Increasingly, experts and the Court are recognizing that signage is far more valuable than the cost of the structure itself. For this reason, a detailed approach to the appraisal of signage has been developed and has repeatedly been accepted as valid in courts of law.

Municipal employees are sworn to uphold the law and the Constitution; therefore, they must honor the bundle of rights associated with the use of private property and must pay just compensation when that property is taken for public use. Where signage is taken, municipal officers are required to seek a qualified appraiser who can accurately determine the full and fair value of that signage.

Endnotes:

1. Berman, Barry and Joel R. Evans (1992), Retail Management. New York: MacMillan.
2. Lusch, Robert F., Patrick Dunne, and Randall Gebhardt (1993), Retail Marketing, Cincinnati: Southwest Publishing.
3. As Charles R. Taylor, Ph.D., Professor of Marketing at Villanova University pointed out in his groundbreaking book On-Premise Signs as Storefront Marketing Devices and Systems (published by The Signage Foundation for Communication Excellence, Inc. and co-sponsored by the U.S. Small Business Administration in 2005), on-premise signage functions similarly to outdoor advertising in three ways: it brands the business, it extends memory of the business, and it prompts impulse sales.
4. Beaver Dam Raceway, Inc. v. Town of Beaver Dam, 315 N.W.2d 727 (unpublished opinion, Wis.App. 1981).
5. Most of the material in this Signline has been excerpted from The Value of Signs, a book published by The Signage Foundation for Communication Excellence, Inc. and available for sale at www.signs.org.
6. "According to common law concepts, 'property' includes the right to possess, use, enjoy and dispose of a thing. Also included in the bundle of rights constituting 'property' is the right to exclude other persons from using the thing in question. Indeed the Supreme Court of the United States has indicated that, for eminent domain purposes, the term 'property' includes 'every sort of interest' an individual may possess." United States v. General Motors Corp., 323 U.S. 373, 377-8, 65 S. Ct. 357, 359-60, 89 L. Ed. 311 (1945). In Re: Condemnation by Pennsylvania Turnpike Commission for Pennsylvania, 1989 WL 225404 (Pa. Com. Pl.), 3 Pa. D. & C, 4th 653, p. 2. See also 44 Liquormart, Inc., et al v. Rhode Island et al. (94-1140), 517 U.S. 484 (1996).
7. A matched pair analysis is one that compares the value of one property to the value of another that is as similar as possible except for the single factor for which one is seeking to establish value.
8. The Research on Signage Performance by the University of San Diego School of Business Administration was sponsored by the California Electric Sign Association, the International Sign Association, the Sign User Council of California, and the Business Identity Council of America. A summary of the findings appeared in The Economic Value of On-Premise Signage, a compendium of research results and articles on sign amortization and copyright and trademark protection. The booklet was published jointly in 1997 by CESA and ISA.
9. Wade Swormstedt, "Delays and Damages," *Signs of the Times*, March, 1999 at p. 52.

Signage is far more valuable than the cost of the structure itself. Its value lies in its ability to communicate with prospective customers and win their business. Often that value increases with the age of the sign.



10. This measurement addresses how many times a typical viewer, reader, or listener is exposed to the advertiser's message in a given period of time.
11. Assume, for example, that you spend $30,000.00 on a sign, and that its useful life is about ten years. The amortized daily cost of an illuminated sign would equal about $8.22. Add to this the daily cost of electricity (approximately $0.20 for a new LED message sign), thus giving a business a daily expense total of $8.42. With a daily traffic count of 20,000 vehicles passing the business, it would spend less than $0.43 per thousand exposures (counting drivers only). Obviously, as the flexibility to change a message is increased, the cost per thousand exposures for each particular message can also increase.
12. The OAAA is an outdoor advertising trade association. Its Web site is http://www.oaaa.org.
13. Despite the growth in Internet sales, they still account for only a very small percentage of retail sales. <http://www.enterprisenetworksandservers.com/ars/art.php?29> June 16, 2006.
14. 97 C.D.O.S. 6341 (1997), Second Appellate District.
15. In response to the city of Agoura Hills' argument, the trial court stated: "Just how commercially effective signs may be at other locations is not directly relevant here … vigorous business and healthy sales [of third party businesses] … may be generally true [b]ut that is not the statutory test."
16. "Doing business as."
17. The trial court determined that the state code's statutory language minimally required "a circumstantial analysis of not only the simple visibility of the sign, but also whether the sign will be noticed [emphasis in original], and the message imparted to the viewer's brain … [T]he additional circumstances bearing on noticeability or perceptibility would include the origin and nature of the customer base and buying motivation, general visibility in the area, the high-speed, high-volume nature of the freeway, location of decision points for motorists along the freeway, identification time and reaction time, and time to make safe lane changes."
18. The trial court found "… as to each of the plaintiffs, there would be a material impairment of the commercial effectiveness of a conforming sign … [because] each of the businesses relies on its existing sign to attract customers … substantially … from the freeway." Significantly, none of the trial court's findings, including those regarding Plaintiffs' research, were overruled or otherwise excepted by the appellate court.

The taking of an on-premise sign through eminent domain can easily result in lost memory of the business, lost impulse sales, and lost branding.

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