



December 14, 2012

Ms. Alice Kelly
Manager
Policy Branch, Policy, Planning and Sustainability Administration
District Department of Transportation
55 M Street, S.E., 5th Floor
Washington, DC 20003

**Re: Comments on Proposed Rulemaking - Title 13. Sign Regulations
Presented on Behalf of Vornado/Charles E. Smith**

Dear Ms. Kelly:

We have closely reviewed the proposed rulemaking from the diverse perspectives of Vornado/Charles E. Smith as an owner, developer, leasing broker and property manager of commercial and residential real estate in the District of Columbia, and experience in other jurisdictions with controls over signage related to our properties. With those perspectives in mind, we have general concerns about the scope and breadth of the proposed rulemaking and also the process by which the proposal was formulated.

We clearly recognize that current controls over signs in the District are inadequate and dated. We also understand and feel it desirable to pull together in a single location all sign controls in a single location to facilitate the user.

That being said we are concerned that the task force in developing these proposed regulations did not include private sector representatives, especially where it was the desire to bring into play a consideration of best practices. Similar to the development of the new Construction Codes of the District, we believe it would have been helpful to have a representative group of sign fabricators and architects/designers, as well as representatives of the commercial and residential real estate community, to vet both old policies and new ideas for creating a positive streetscape environment. While the intent of the process was to restate and update the current regulations, we are concerned that there may be unintended consequences with the enforcement of the proposed regulations.

In addition to our concerns regarding process, we are concerned that these proposed regulations do not address how existing signs are to be protected and do not provide for some transition period from the current sign controls to what might be adopted as new regulations. As you are aware the Construction Codes of the

District of Columbia from which many of the provisions of these proposed regulation are drawn provide both for recognized continuation of existing conditions and well as provide a methodology implementation of the new regulations. We would suggest that, since many of the proposed changes in control of signage are new, with others being re-statement of provisions that may not have been routinely enforced (or proposed enforcement of what might be existing policies now captured in this proposed new program), provisions need to be provided for that allow for transitory implementation of any new proposed program and to protect existing signage (unless and until it is replaced). Additionally since the regulations apply to both temporary and more permanent signs, there may be a need to treat temporary signs different from permanent signs to address these two subjects.

We have further concerns about the costs that may be incurred by the District in the implementation of this proposed program and its enforcement. We suspect that implementation of this program will impose additional manpower burdens, especially on DCRA and DDOT, to process permit applications in a timely fashion. The District should be cautious if it could be seen as yet another hurdle to doing business in the District when compared to our surrounding jurisdictions. We also see material difficulties in the enforcement of several of these provisions. In some instances provisions provide no clear standard but instead are ambiguous or are so subjective as to make it difficult for the regulator to enforce in any clear and consistent manner. The most obvious example is the provisions of Section 100.4 that depending on interpretation of "intent" could effectively bring almost all signage within a premises under the program.

As a way to present our principal comments and concerns we have appended to our letter a table of comments, by section, noting the section number and our comment or concern(s) about that section.

If, as you review the comments received on these regulations, you find that it would be helpful to bring together in a group setting representatives of various interest groups to work through revisions to these proposed regulations, we would be prepared to commit one or more persons to bring the private real estate sector viewpoint to those discussion.

In closing, we commend the Task Force for taking on the task to bring District controls on signage into a comprehensible ; it is certainly a daunting task. We concur that having a single title dedicated to signage controls is beneficial to facilitate compliance and provide better implementation of District goals to enhance the streetscape environment of the District, but our concerns about many of the provisions give us pause and we strongly recommend thorough revisions based on



the comments provided by all of the parties impacted by these regulations to ensure an enforceable code that meets our collective goals for the District of Columbia.

We would be glad to speak with you further regarding our concerns and comments. If you have any questions or would like to discuss further please contact Gordon Fraley at gfraley@vno.com or 703-769-1101.

Sincerely yours,

Gordon Fraley
Vice President, Development

Joan Berman
Senior Vice President, Management Services

James Creedon
Executive Vice President, Leasing

Encl. Appendix of Specific Comments

cc: Terry Bellamy, Director
District of Columbia Department of Transportation

Nicholas Majett, Director,
District of Columbia Department of Consumer and Regulatory Affairs

**Specific Comments
On Proposed Rulemaking
Title 13, Sign Regulations**

100.4	As a subjective construction, this provision, based upon intent to be seen from the exterior of the premises, could be interpreted as applying to almost every "sign" within a premises. Creates confusion for the user and imposes material hurdles on enforcement. We strongly urge re-instatement of the present exemption of those signs located 18" or more behind a glass line.
201	Allow for exemptions for existing signs which should be grandfathered and for temporary signs.
201	A process should be put in place to provide for an automatic renewal of approved signage that uses the same permit number. See 704.5 below. This would be similar to the maintenance of registration of a business entity in good standing that retains the same identification number with its periodic qualification renewal.
201.1	The exemption from the permit requirements for signs of less than 1 sq. ft. seems overly limiting; the exemption size should be increased to reduce the burden on DC to process applications and issue permits, as well as to simplifying enforcement. The issues that may be seen to be plaguing the District at this time don't seem to arise from smallish signs.
201.2	Permit numbers should only be required on signs within Public Space and flexibility should be given to the location so that it can be obscured from direct view. Adding permit numbers and the date of issuance on every sign throughout DC will create for unsightly signage.
201.3	The purpose of this clause is unclear in the context of a section related to stating when obtaining permits is required. The regulations would appear to regulate all signs regardless of message content.
203.2/303	The justification for the denial of a permit should be submitted in writing at the time the permit is rejected, and not be subject to an additional 14 day notice. There should also be a process to resubmit without having to wait up to another 30 days for a response. There should also be an appeals process. Should this apply to each Section of the Regulations instead since DDOT may be a different process than DCRA? This does not seem to be a general matter.
603	What if sign under 603.2 or 603.4 requires electricity like in Section 603.3? Should 603.2, 603.3 and 603.4 just be combined?
603.2(a) and	Add provision that applicant can submit on business owners behalf like Section 603.3(b). Often times a business owner or landlord will have

603.4(a)	the manufacturer or contractor secure the permit.
603.3(c)	Remove mounting hardware specifications, these may change over time and could vary on case by case basis.
603.3(f)	What is the definition of a “pole” and what is pole number? While many utility and streetlight poles are marked, there are other poles in public space that are not numbered.
604	The permitting official issues a decision 15 days after a decision by Public Space Committee. Could the permitting official deny the permit if Public Space Committee approves the permit? Is the applicant is to receive a permit within 30 days in total as stated in 604.3, that means Public Space Committee must always take action within 15 days of submission, which to our knowledge is not consistent with the Committee's procedures. Does Committee action necessitate Advisory Neighborhood Commission consideration as well? If so, this could further extend the time to process an application.
605.6	More flexibility needs to be provided; owners may have several buildings within one block that require signage so the limit of 3 signs on one street of one block is very restrictive.
605.9	Does the total area apply to covered walkways? More signage may be preferred to help decorate an unsightly element during construction. Provide more flexibility. Covering construction fencing with banner is also more attractive than being limited to a certain amount of area per the frontage.
606.3	The regulations for freestanding sidewalk signs are very specific. Why is a permit required? It seems the regulations can be enforced without a permit. Consider exempting these signs from the permit process.
606.6	Like the regulations for freestanding sidewalk signs, consider making the requirements for parking signs more specific and exempt them from a permit.
606.7	Same comment as 606.6. Make a single Section for all sidewalk signs including parking and temporary market signs.
607.13	Revise language -- the “official” should not be paid; payment should go to the DC Treasurer. Also, many companies require an invoice to issue payment. Finally, can there be an option for the owner of the banner to repair the damage?
607.14	Typically the applicant issues the Traffic Control Plan; it is not issued by permitting official.
608.5	These provisions seem very restrictive on BIDs that are attempting to create a space using flags and sign poles to create a neighborhood feeling, and thus would be to conflict with place making that the BIDs

	and OP are seeking to encourage
704.5	For logistical reasons there should be a renewal process in the sign provisions that would permit retention of the same permit number, etc. On fabricated signs it would be difficult replace or substitute a permit number and date, if required.
705.1	Many businesses will want their signage installed prior to the time that a C of O is issued assuming they open for business simultaneously. The impact of waiting until the C of O is received to begin the application process for any signage would be devastating for a retail tenant. They want to be able to open after receipt of C of O with permanent signage in place. A signage permit should be issued with a building permit or evidence of lease/ownership. This item conflicts with 705.3.
705.6	There must be a process for phasing in the new regulations and grandfathering existing signage.
706.1	Many buildings take longer to lease than 180 days. Add a provision that allows for a longer term as noted on the permit.
706.3	This section talks about temporary construction signage which may be on private, public or private and public property. Coordinate section with Section 605.9 to give more flexibility and coordinate between applicable agencies.
706.4	See comments in 706.3. Can these sections be combined? Or add items from 706.3 regarding construction signage to this section. Also, add that names of owners, developers, and others as approved by DCRA may be included on signage.
706.5	Very vague. Since a banner is a "sign" by definition, we aren't clear why this provision is required.
713.1	Buildings need the ability to have more than one sign. For instance, if a retail space is available on the ground floor of an office building and there is a vacant floor of office above, you need the ability to advertise in the window of the retail and hang a banner on the building above. Also the term "premises" is not defined so its usage is unclear. For instance, under the Construction Codes the term "premises" means the combination of land and all improvements located thereon. What is the intent in using this term -- application only to a specific space within a building? Something else?
713.2	The area of the signage allowed should relate to the size of the building. Larger signs should be permitted as approved by DCRA.
713.3	Delete section. If space is available on the 12 th floor of a building, signage should not be permitted only on the 12 th floor where it would not be visible.

713.7	This section implies that I could have up to 13 signs that are up to 60 sq. ft., but Section 713.1 says you can only have one sign. What is intended? One or more signs up to 800 sq. ft. is more appropriate.
716	Provision needs to be made for some process where signs for a tenant on an upper floor(s) of a building can be identified at the exterior entries to the building. It is not atypical for a lead tenant to be named at the entry of a building or on the top of a building.
723.1	Should the BZA and ZC be able to grant additional signage instead of just further restricting the signage regulations?
723.3	It takes longer than 180 days lease-up apartment buildings and they are often constantly leasing. Provide flexibility for DCRA to issue longer permits.
804.1	For sale or lease signs should be allowed in Class 3 and 4.
1200	Enforcement should run to the sign applicant or business owner, not the owner of the land or building in the case of a leased premise.